

ZB# 08-11

Deborah Menkens

52-1-79.1

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553

May 12, 2008

08-11 Deborah Menkens - 1 Seal
Request for (1) Additional
52-1-19.1

NEW WINDSOR ZONING BOARD OF APPEALS

SBL: 52-1-79.1

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING

DEBRA MENKENS

AREA

CASE #08-11

WHEREAS, DEBRA MENKENS, owner(s) of 1 Sean Court, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an Request for One (1) Additional Horse and; variance to permit three (3) horses to be maintained 20 ft. from the side, rear and front property lines in an R-1 Zone (52-1-79.1)

WHEREAS, a public hearing was held on MAY 12, 2008 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared on behalf of this Application; and

WHEREAS, there was one spectator appearing at the public hearing; and

WHEREAS no persons spoke in favor and one person spoke in opposition to the Application; and in addition, five (5) post cards were received by the Board, four of which were in favor and one of which was opposed.

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The Evidence presented by the Applicant showed that:

- (a) The property is a residential property located in a neighborhood of residential properties.

- (b) The property consists of a home, a stables, and two horses. Total area of the property is approximately 4.159 acres . The portion of the property enclosed for

use for horses is 1.65 acres. If the application to remove the 75' fence is granted, the space available for the horses, would be approximately 2.26 acres.

- (c) The property is currently occupied by one family having two horses. The applicant seeks permission to add a third horse.
- (d) It is the position of the Town of New Windsor that the applications herein are for area variances.
- (e) The 75' electric fence is visible to passers by and is possibly unsightly.
- (f) The applicant has committed to removing the accumulated urine and manure from the property on a daily basis.
- (g) The portion of the property, which is in use by the horses, is surrounded by, in addition to the electric fence, a wooden fence which fence is approximately 54" in height, having s' poles, and is cemented in place. Both the electric fence and the "wooden" fence are depicted on the plans submitted by the applicant.
- (h) The applicant has installed on her property a "Rain Pond" to ensure that there is no manure contamination of her neighbor's property.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance(s) will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant that can produce the benefits sought.
3. The variance(s) requested are substantial in relation to the Town regulations but, nevertheless, are warranted.
4. The requested variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but, nevertheless, should be allowed.
6. The benefit to the Applicant, if the requested variance(s) are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variance(s) are/is appropriate and are/is the minimum variance(s) necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variance(s) provided that the following conditions are met:
 - a. The applicant will maintain the "wooden" fence depicted on the materials submitted to the Zoning Board in its present location, and
 - b. The applicant will remove all horse manure, feces or urine from the property daily, and
 - c. The applicant will maintain the "rain pond" in working order as depicted on the materials submitted by the applicant to the Zoning Board of Appeals, and
 - d. The applicant will maintain her property in accordance with the materials submitted by the applicant to the Zoning Board of Appeals describing her property.

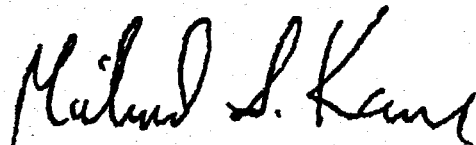
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a Request for One (1) Additional Horse and; variance to permit three (3) horses to be maintained 20 ft. from the side, rear and front property lines in an R-1 Zone (52-1-79.1) as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and/or Building Inspector and Applicant.

Dated: May 2008



Chairman

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OFFICE
845-563-4615**

MEMORANDUM

TO: DEBRA MENKENS
FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD
DATE: 01-22-09
SUBJECT: ESCROW SUMMARY - 08-11

PLEASE FIND ATTACHED A BREAKDOWN OF CHARGES FOR YOUR APPLICATION FOR THE ZONING BOARD OF APPEALS. PLEASE ISSUE A CHECK IN THE AMOUNT OF \$181.29 MADE PAYABLE TO THE TOWN OF NEW WINDSOR.

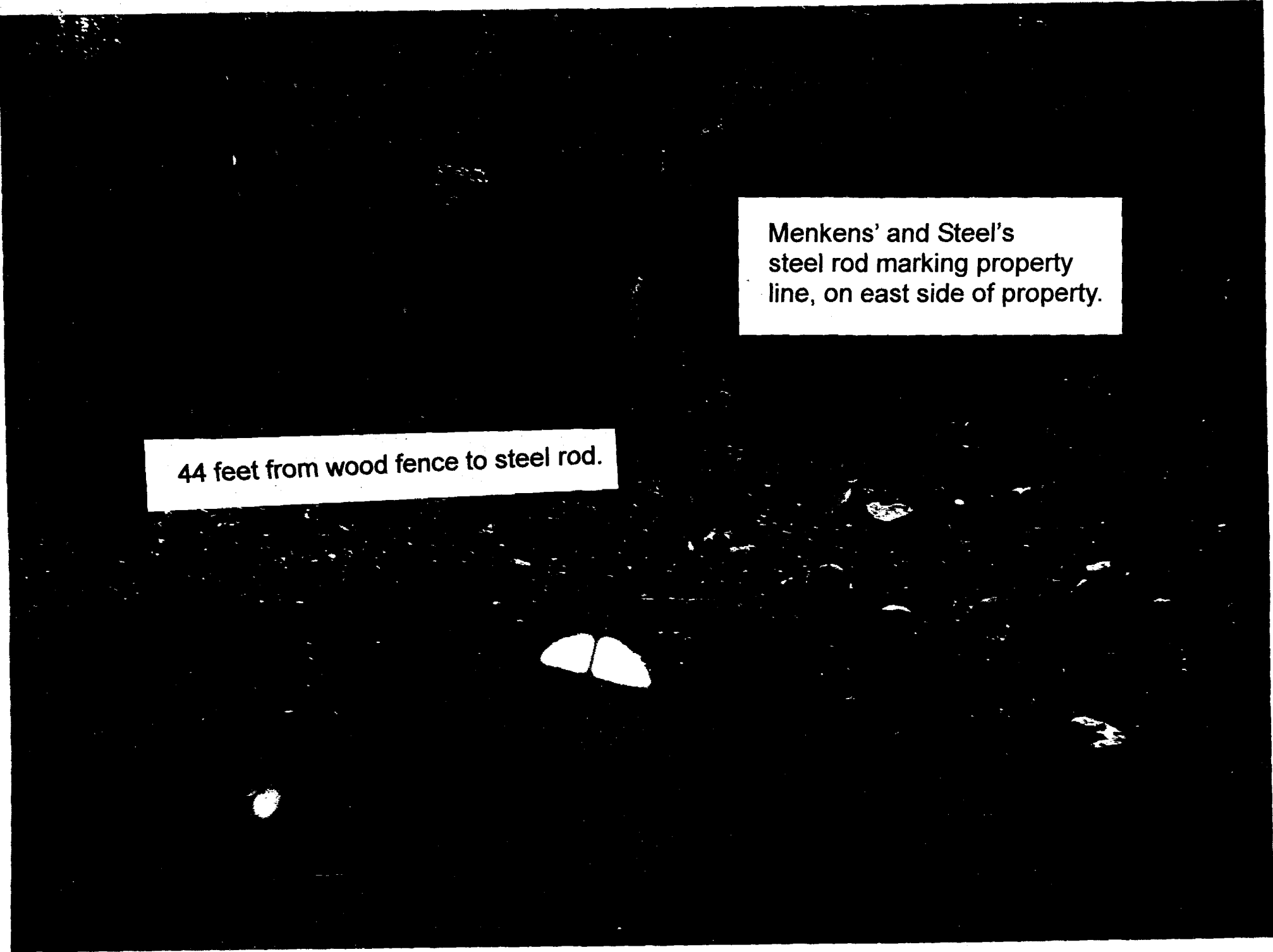
ZBA FILE #08-11

THANK YOU,

MYRA

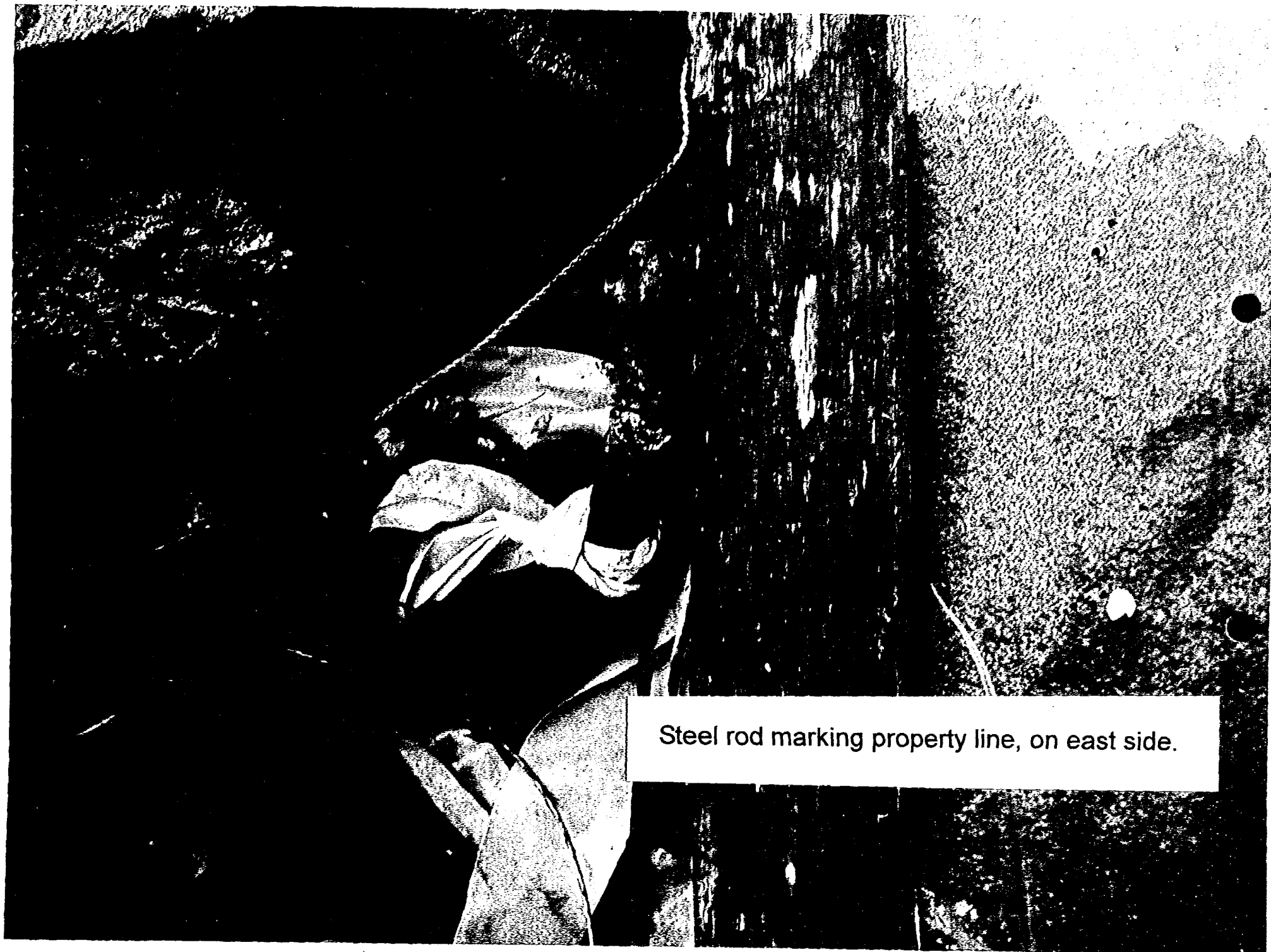


Available Property for Horse Use
3.6708 acres

A dark, grainy photograph of a field. In the foreground, there is a white, irregularly shaped object, possibly a piece of debris or a small structure. The background is mostly black with some faint, scattered white specks. Two white text boxes are overlaid on the image. One box is in the upper right, and the other is in the center-left.

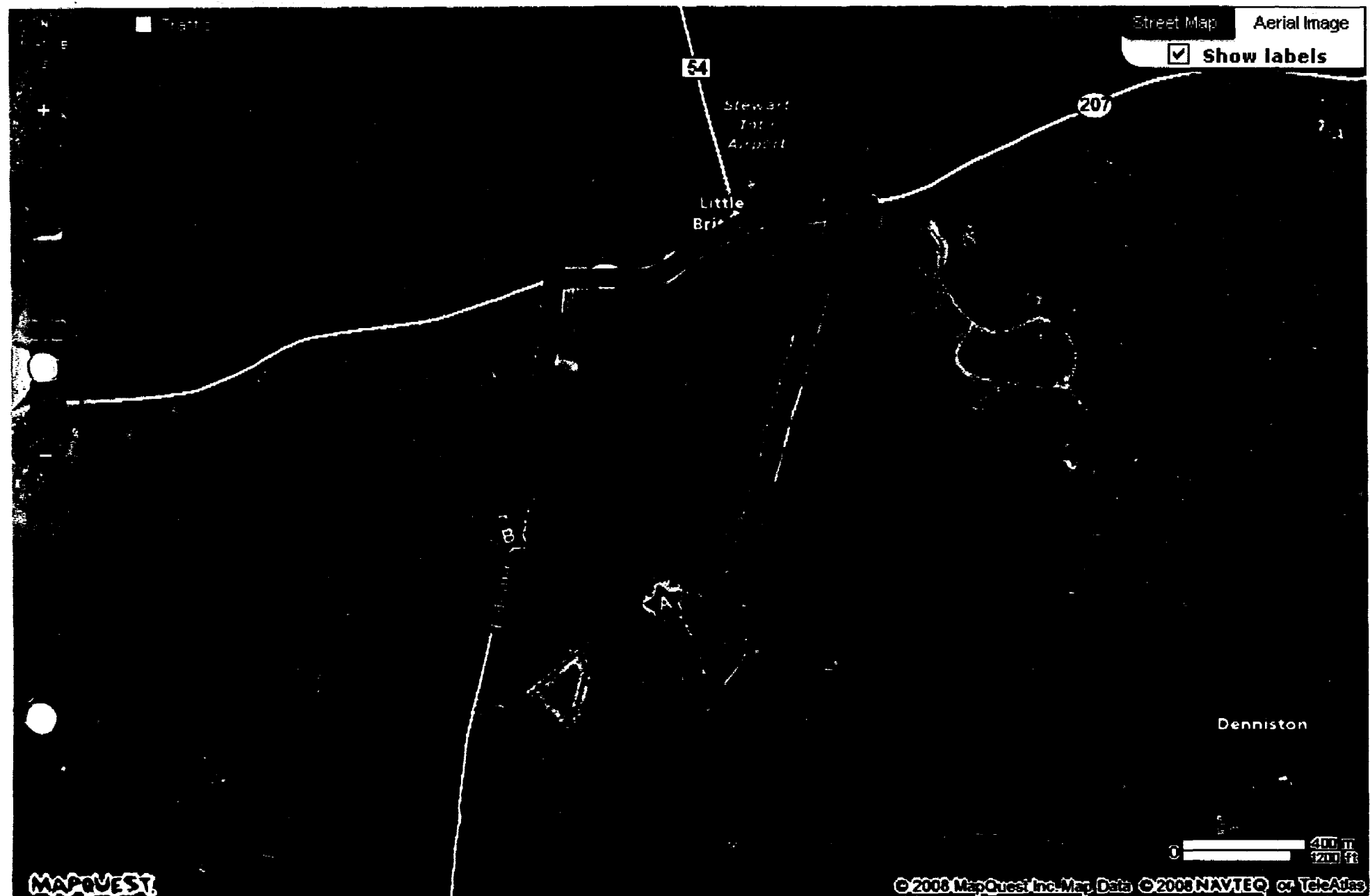
Menkens' and Steel's
steel rod marking property
line, on east side of property.

44 feet from wood fence to steel rod.



Steel rod marking property line, on east side.



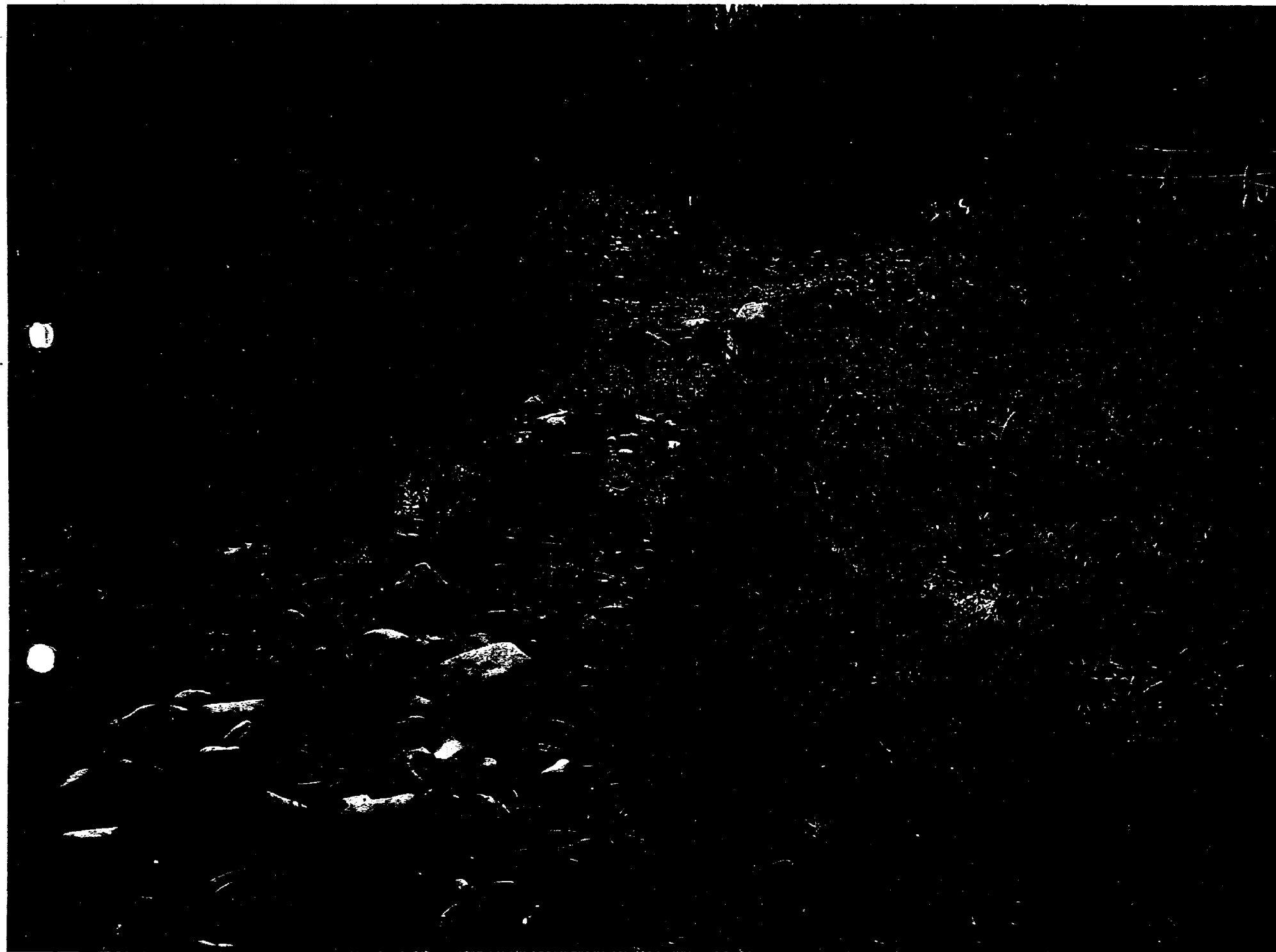


Total Estimated Time: 7 minutes

Total Estimated Distance: 3.02

Rain Pond for water run off.









Rain barrel for sheet water.

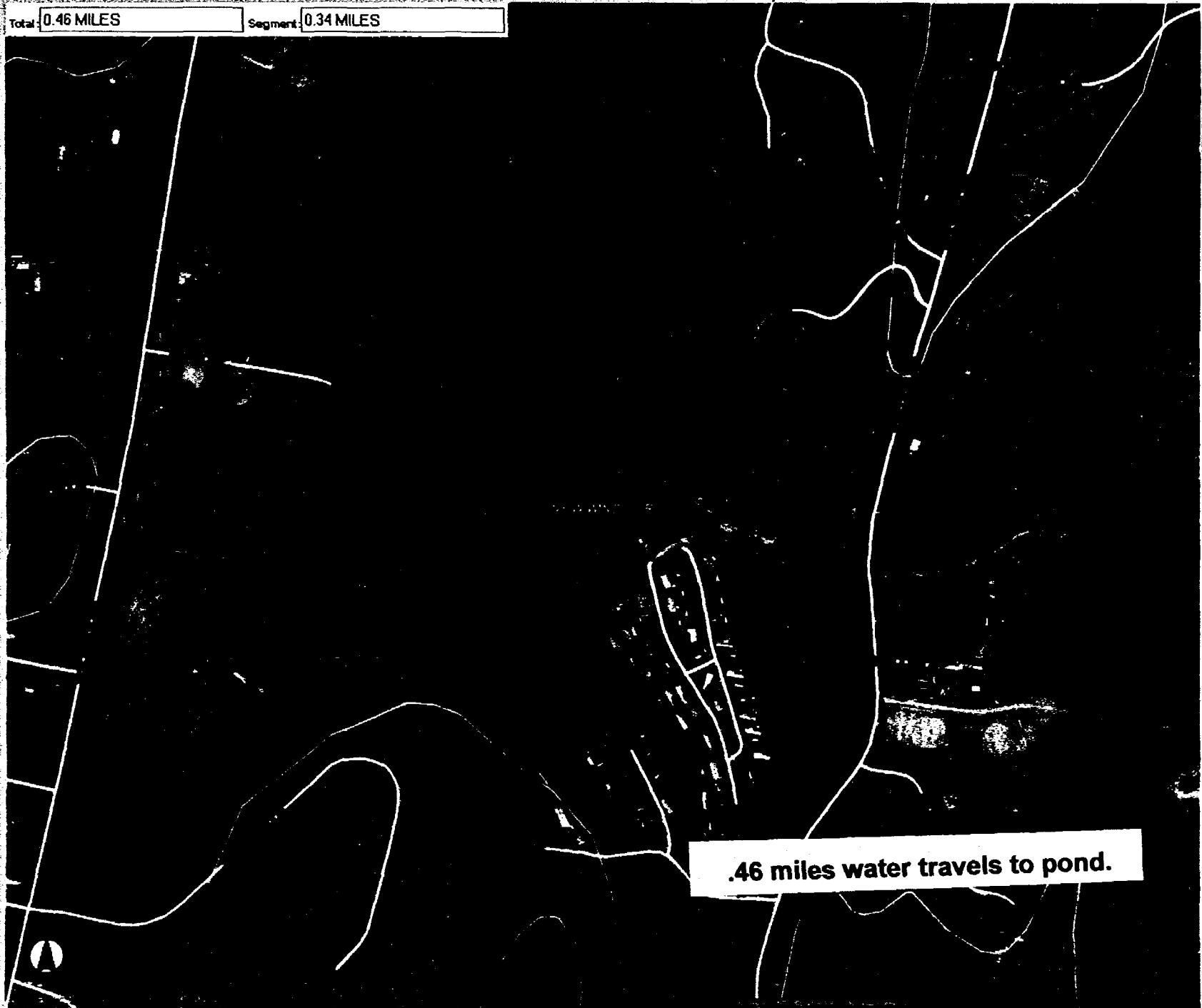
Orange County NY Floodplains

TOOLS

- ☐ Legend
- ☐ Overview
- ☐ Zoom In
- ☐ Zoom Out
- ☐ Full Map
- ☐ Pan
- ☐ Identify
- ☐ Measure
- ☐ Clear
- ☐ Geocode
- ☐ Print

Total 0.46 MILES

Segment 0.34 MILES



.46 miles water travels to pond.

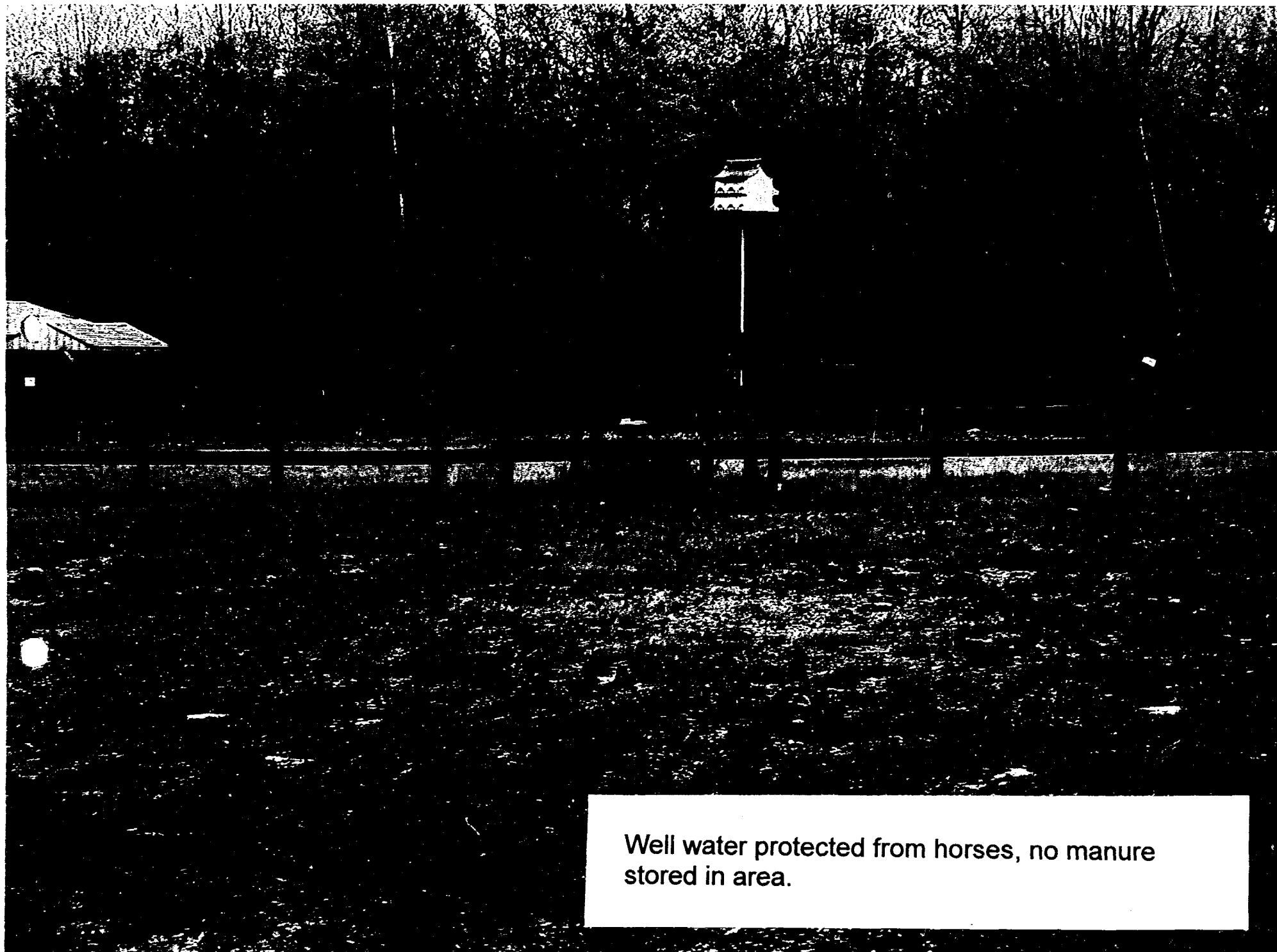
LAYERS

- ☒ Addressing
- ☒ Topography
- ☒ Roads
- ☒ Streams
- ☒ DEC Wetlands
- ☒ Fed. Wetlands
- ☒ Floodplains
- ☒ Municipal Boundaries
- ☒ 2004 Imagery
- ☒ 1994 CIR Imagery

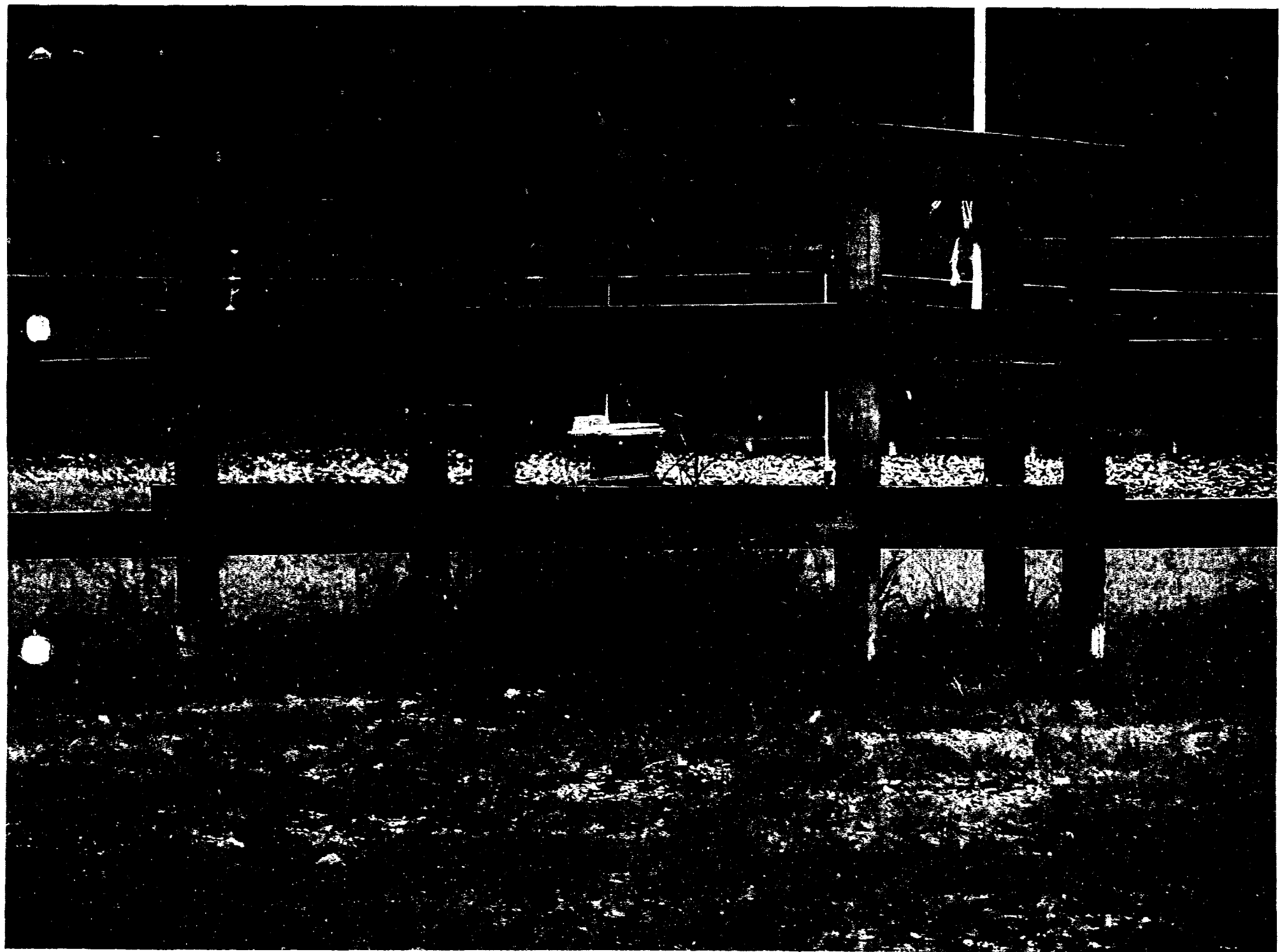
Refresh Map

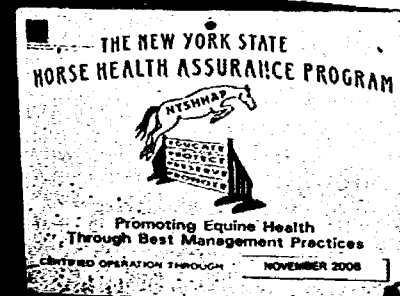
☒ Auto Refresh

you are about to: Measure

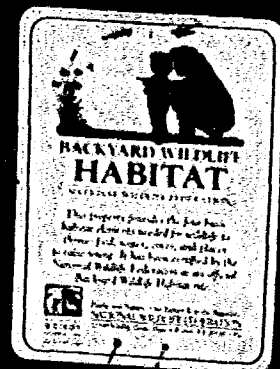


Well water protected from horses, no manure stored in area.

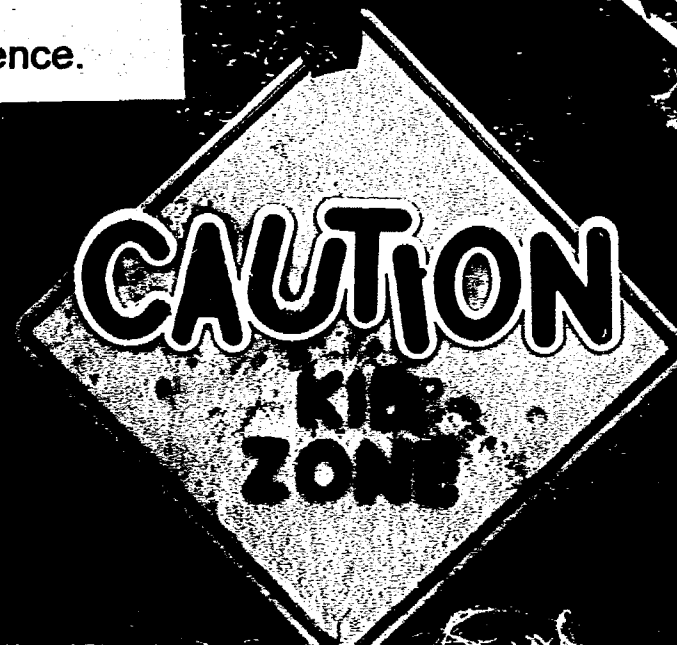




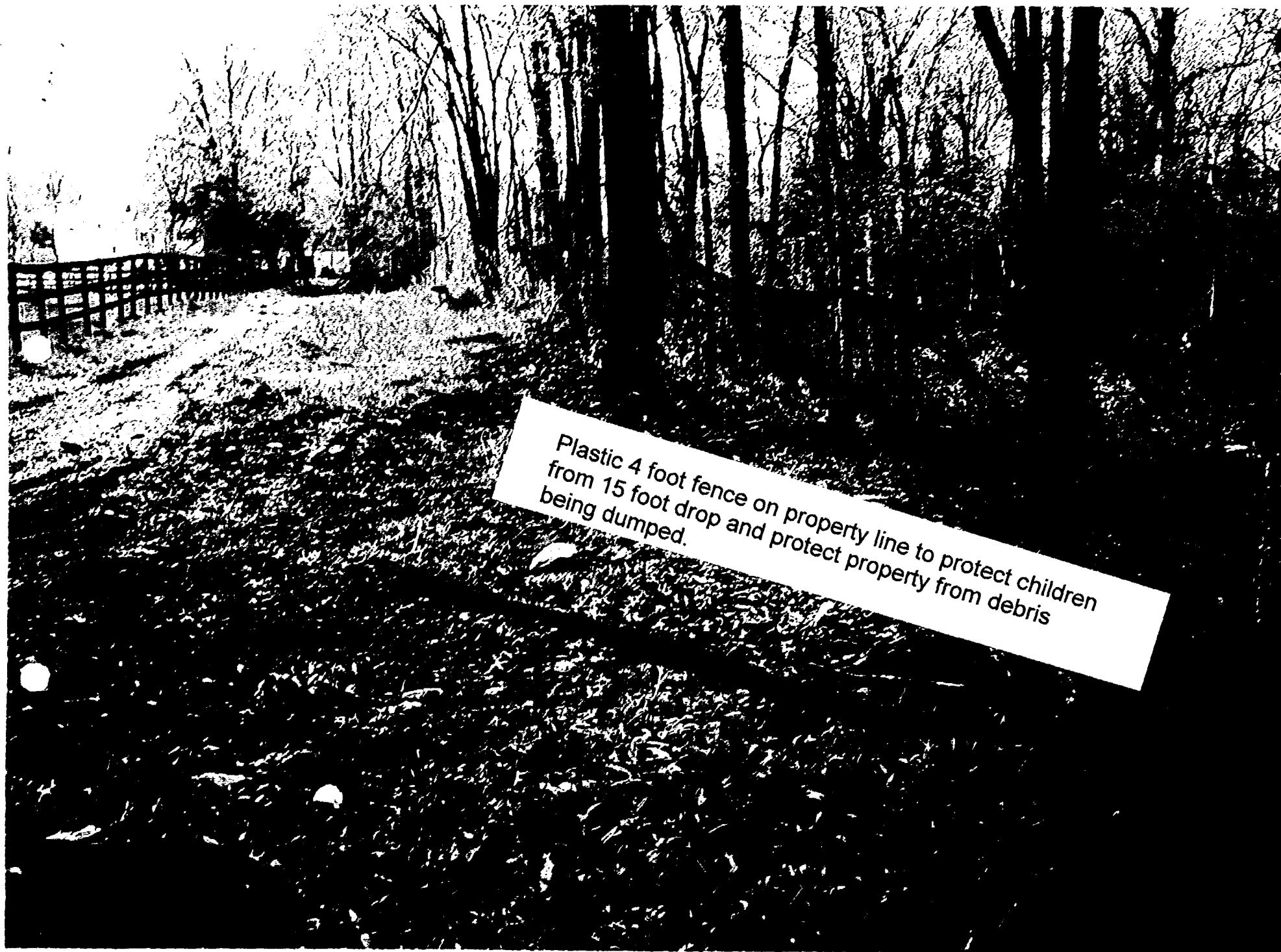
Stable sign for emergency phone number



Signs posted on front gate and fence.



**KEEP
GATE
CLOSED**



Plastic 4 foot fence on property line to protect children
from 15 foot drop and protect property from debris
being dumped.

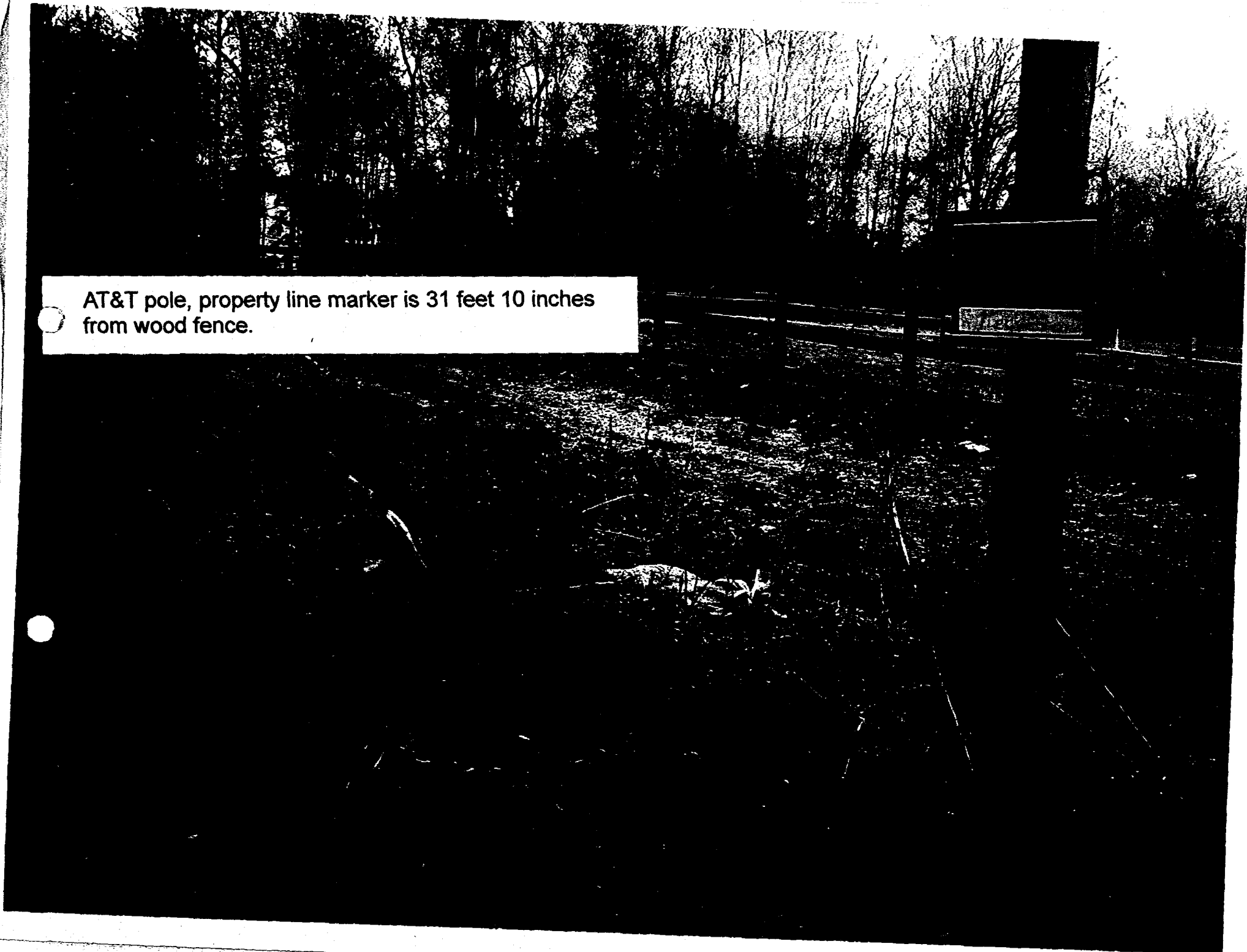


Debris



Debris





AT&T pole, property line marker is 31 feet 10 inches
from wood fence.

*copied to
Bry
Wade
Fox
3/10/05*

ORANGE COUNTY TAX MAP DEPARTMENT

124 MAIN STREET, GOSHEN, NEW YORK 10924

RECEIVED

NOTICE OF TAX MAP REVISION

MAR 10 2005

(16)

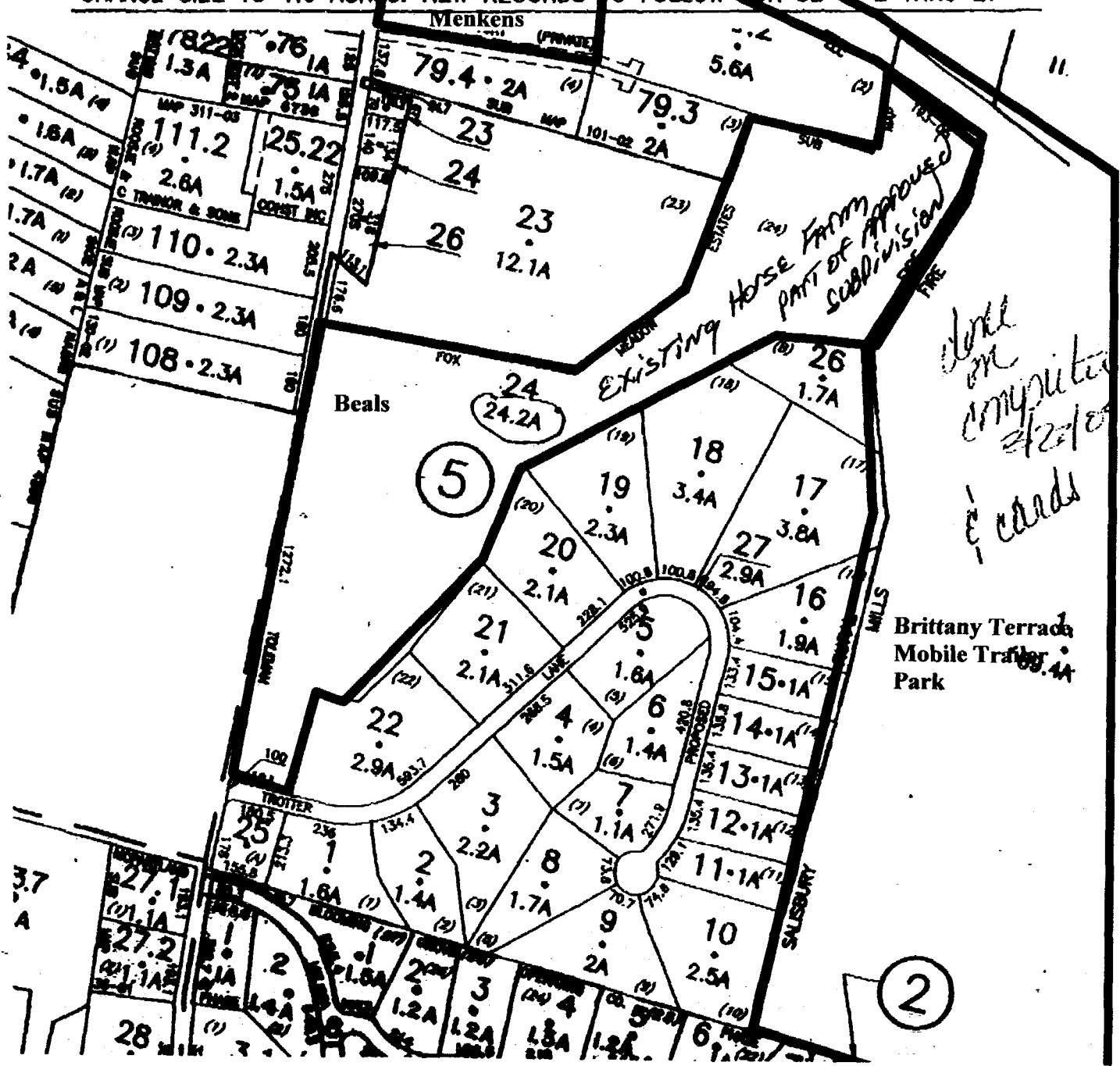
MAP: CITY OF _____ TOWN OF: N.W. VILLAGE OF NEW WATKINS
SUB MAP: FOX MEADOW ESTATES SUB MAP 193-05 FILED 2/24/05

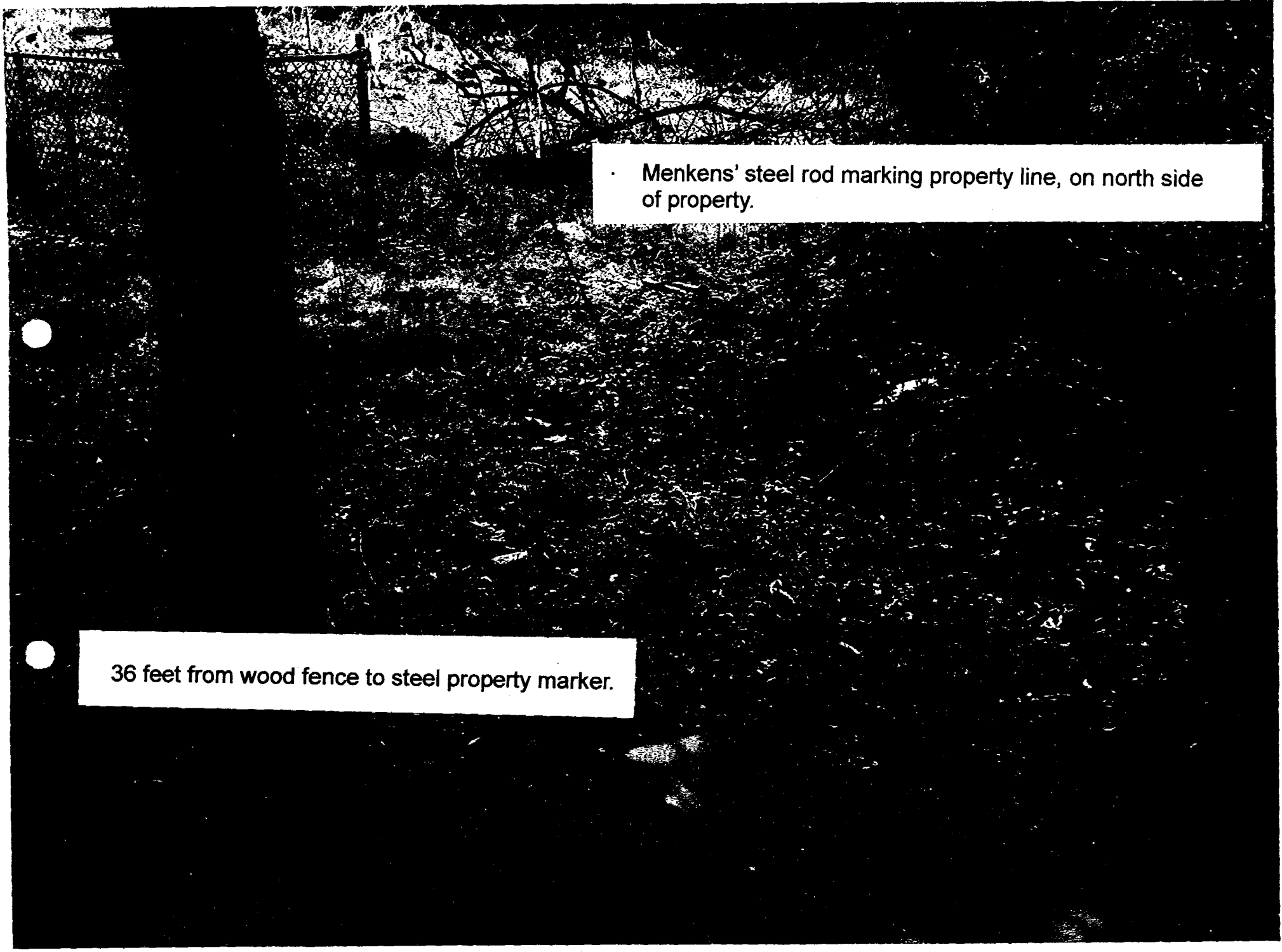
CHANGE

RE: DEED/LIBER _____ PAGE _____ RECORDED _____ SAME AS ☐
PORTION OF ☐
CORRECTION ☐
OTHER ☐
SUBDIVISION ☒

PRESENT TAX MAP: SECTION 52 BLOCK 1 LOT 20
CHANGE TAX MAP: SECTION 52 BLOCK 5 LOT 1
NEW TAX MAP: SECTION 52 BLOCK 5 LOT 2 THRU 27

EXPLANATION REVISE MAP SHOWN BELOW IN RED CHANGE RECORDS 52-1-20
TO 52-5-1 LOT 1 FOX MEADOW ESTATES SUB MAP 193-05 (E590795) (N957178)
CHANGE SIZE TO 1.6 ACRES. NEW RECORDS TO FOLLOW FOR 52-5-2 THRU 27





Menkens' steel rod marking property line, on north side of property.

36 feet from wood fence to steel property marker.



Steel rod property marker, north side of property.



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
RECORD OF CHARGES & PAYMENTS**



FILE #08-11

TYPE: AREA

TELEPHONE: 914-805-5843

APPLICANT:

Deborah Menkens

1 Sean Court

Rock Tavern, NY 12575

RESIDENTIAL: \$ 50.00
COMMERCIAL \$ 150.00
INTERPRETATION \$ 150.00

CHECK # _____
MONEY ORDER # 08447588965
CHECK # _____

ESCROW: RESIDENTIAL \$300.00

MONEY ORDER # 10986898757

~~~~~

**DISBURSEMENTS:**

MINUTES ATTORNEY  
\$7.00 / PAGE FEE

|                              |           |       |                  |                 |
|------------------------------|-----------|-------|------------------|-----------------|
| PRELIMINARY:                 | <u>11</u> | PAGES | \$ <u>77.00</u>  | \$ <u>35.00</u> |
| 2 <sup>ND</sup> PRELIMINARY: | —         | PAGES | \$ —             | \$ —            |
| PUBLIC HEARING:              | <u>27</u> | PAGES | \$ <u>189.00</u> | \$ <u>35.00</u> |
| PUBLIC HEARING:              | <u>14</u> | PAGES | \$ <u>98.00</u>  | \$ <u>35.00</u> |

LEGAL AD: Publish Date: 4-11-08

\$ 12.29

TOTAL: \$ 376.29 \$ 105.00

~~~~~

ESCROW POSTED: \$ 300.00
LESS: DISBURSEMENTS: \$ 481.29

AMOUNT DUE: \$ 181.29

REFUND DUE: \$ _____

Cc:

J.F. _____

PUBLIC HEARING NOTICE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
PLEASE TAKE NOTICE that the Zoning Board of
Appeals of the TOWN OF NEW WINDSOR, New
York, will hold a Public Hearing on the following
Proposition:
Appeal No. (08-11)
Request of DEBORAH MENKENS
for a VARIANCE of the Zoning Local Law to Permit:
Request for One (1) Additional Horse unit, variance
to permit three (3) horses to be maintained 20 ft.
from the side, rear and front property lines at 1 Sean
Court in an R-1 Zone (S2-1-79.1)
PUBLIC HEARING will take place on APRIL 28,
2008
at the New Windsor Town Hall, 555 Union Avenue,
New Windsor, New York
beginning at 7:30 PM.
Michael Kane, Chairman

STATE OF NEW YORK

COUNTY OF ORANGE, ss:

Kathleen O'Brien, being duly sworn, disposes
and says that she is the Supervisor of the
Legal Department of the E.W. Smith Publishing
Company, Inc., Publisher of The Sentinel, a
weekly newspaper published and of general
circulation in the Town of New Windsor, Town
of Newburgh and City of Newburgh and that
the notice of which is annexed is a true copy
was published in said newspaper 1
time(s) commencing on the 11th day of
April, A.D., 2008 and ending on
the 11th day of April, A.D.,
2008.

Kathleen O'Brien

Subscribed and shown to before me this 13th
day of May, 2008.

Deborah Green

Notary Public of the State of New York
County of Orange
My commission expires _____

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
#4984065
Commission Expires July 15, 2011

12.29



THE SENTINEL

P.O. BOX 406
VAILS GATE, NY 12584

Invoice

Date	Invoice #
4/22/2008	1356

Bill To

TOWN OF NEW WINDSOR
555 UNION AVE
NEW WINDSOR, NY 12553

P.O. No.**Terms****Project***MYRA*

Issue Date	Description	Rate	Amount
4/11/2008	LEGAL ADS: PHN - APPEAL NO 08-11 MENKENS 1 AFFIDAVITS	8.29 4.00	8.29 4.00
4/11/2008	LEGAL ADS: APPEAL NO. 08-05 MOLONEY 1 AFFIDAVIT	9.48 4.00	9.48 4.00
Total			\$25.77

May 12, 2008

3

PUBLIC HEARINGS:

DEBORAH MENKENS (08-11) - CONTINUATION

MR. KANE: Continuation of Deborah Menkens' request for one additional horse and a variance to permit three horses to be maintained 20 feet from side rear and front property lines in an R-1 zone.

Ms. Deborah Menkens appeared before the board for this proposal.

MR. KANE: Since this is a continuation of the public hearing, Deborah, you're going to just give us a brief overview.

MS. MENKENS: Yes, and I was wondering if I could address Mr. Kean's notebook he had brought in. Am I allowed to do that?

MR. BABCOCK: Just so you have that.

MR. KANE: You can address it absolutely. Mr. Kean's here this evening? No, okay.

MR. KRIEGER: Probably not because the public hearing's closed.

MR. KANE: Yeah, I have no problem with you addressing anything that's in there.

MS. MENKENS: I didn't get to see it prior to, that's the only reason and it caught me off guard.

MR. KANE: Yeah.

MS. MENKENS: Deborah Menkens, 1 Sean Court, Rock Tavern, New York 12575. An additional horse and the existing wood fence I would like to house the horses in.

May 12, 2008

4

MR. TORPEY: What's with the fence again?

MS. MENKENS: The existing wood fence which has the, I'd like to take down the electric fence and allow the horses to roam to the wooden fence.

MR. TORPEY: What color's the wooden fence?

MS. MENKENS: Brown and the red is the existing.

MR. TORPEY: And the yellow's the property line?

MS. MENKENS: Yes and the green line is trails that we ride on around the fence.

MR. TORPEY: But the main fence is going to be brown?

MS. MENKENS: Is brown, it's existing.

MR. TORPEY: But the red one's going to disappear?

MS. MENKENS: If you allow it, yes.

MR. BABCOCK: The red one's the electric fence that's 75 feet from the property line, the wooden fence that she wants, she wants to take down that fence, let the horses move out and it varies along the property line the fence, the closest point is we put down 20 feet which was a guesstimate actually by measurements, it's 23 feet.

MR. TORPEY: I was chairman that night, I just was refreshing.

MR. BABCOCK: I'm sorry, I didn't realize you were.

MR. KANE: I'll take the refresher, keep going, Mike.

MR. BABCOCK: The fence by the one property line we

May 12, 2008

5

estimated it to be about 20 feet, that would be the closest point that the horses would go to a property line, that's why she's asking.

MR. KANE: Would be the 20 feet?

MS. MENKENS: I brought plans of my own, if I give them out can I get them back?

MR. KANE: Absolutely.

MR. BABCOCK: Mr. Chairman, if you look at the property owner by the name of I'm going to say Fossum behind their property there's a drain at that corner of the property line is the closest point of the fence, you'll see the fence has little x's around it, that's the fence she wants to keep and we estimate that that corner is about 20 feet from that property line and then if you travel north along that fence line you'll get to the corner where it's 27 feet from the property line and 23 feet and then going on the other back line it's 30 feet, 30 feet and then on--

MR. KANE: So the 20 foot is at one point--

MR. BABCOCK: The worst condition.

MR. KANE: And it's at one point and increasingly gets bigger?

MR. BABCOCK: That's correct.

MS. MENKENS: Extreme is 78 feet. Should I continue?

MR. KANE: Yes, please.

MS. MENKENS: Mr. Kean had brought up the fact that he wasn't on the mailer, so I e-mailed Tod Wiley (phonetic) in the assessor's department and he wrote back that it was a human error that Mr. Kean wasn't

May 12, 2008

6

placed on the mail cause I wasn't sure why his name wasn't on there either.

MR. BABCOCK: Mr. Chairman, as you know the town makes the list who the letters have to go to. Mrs. Menkens has nothing to do with that. Mr. Kean indicated that he wasn't on the list and we didn't know why so she's got some explanation from Tod Wiley the assessor why it didn't happen but he was here that night, the attorney said that since he was here I shouldn't put words in Andy's mouth it was fine, you know.

MR. KRIEGER: That's okay but regardless of the notice it's a moot issue, he knew about it, he was here and he was heard so--

MR. KANE: That's a moot issue now we know why. You can continue.

MS. MENKENS: Okay, Mr. Kean's property line is next to my property line but in reality he's three miles from where I live, he's not someone I barbecue with. In 2006, I had a survey done, that's the survey you have in your hands and when they surveyed the property, my surveyor had placed those metal rods into the ground so what I've got here are a few pictures of the metal rod and property.

MR. DITTBRENNER: Can I just for a point of clarification you said Mr. Kean's property is three miles away from you?

MS. MENKENS: His home is.

MR. DITTBRENNER: Lands of Nadis (phonetic) are his property on the map that you provided me?

MS. MENKENS: Right here.

MR. DITTBRENNER: That's his property?

MS. MENKENS: That's his property but he lives three miles from my home. I didn't know what to do because Mr. Kean had said that I was taking 14 feet of his property so what I did was from the corner of the fence to the metal rod I measured it and it came out to 44 feet. That rod is also Mr. Steel's property rod and I took a picture of the rod that's in the ground and then the rocks and everything that's surrounding it.

MR. BABCOCK: Mr. Chairman, just to bring you up on that on the back property line where it says Nadis the 23.5, the 30.5 and the 30.7 Mr. Kean submitted a survey from a Bill Hildreth that shows that those numbers are off but they're off about six inches if they're off, this is a certified surveyor, Anthony Sorace, that says they're accurate so somebody's off about six inches, not 14 feet.

MS. MENKENS: Well, he has his photograph in here.

MR. BABCOCK: Well, as far as the property line's concerned it's really close to where it actually is.

MS. MENKENS: But I'm concerned about his picture.

MR. TORPEY: Six inches is a big difference from 14 feet.

MS. MENKENS: In one of his pictures he has me as 14 feet.

MR. BABCOCK: Yeah, what he's saying is that she has done cleaning or grubbing or something 14 feet onto his property, that's what his claim is in his thing there.

MR. KANE: What else you have, Debbie?

MS. MENKENS: I also have a picture of the center of the property line with a photograph of the, at the

right-of-way pole and a marker showing my property line. Mr. Kean claims that he owns the pole, the Central Hudson pole. This next one is the property line with the marker in it and I measured from the marker to the fence and that was 36 feet, that's by Mr. Decker and on the corner of Mr. Kean.

MR. BABCOCK: Mr. Chairman, the one that she handed you that says posted no trespassing, if you look on her survey right in the north part of the property where it says 30.5 you'll see a little round circle that indicates that pole is on her property and it says cable marker five feet south of line so it is five feet into her property so this picture would appear to be correct with this.

MR. KANE: Right, the one that shows the steel pole boundary.

MR. BABCOCK: And the 31, 36 feet that she's saying the fence is off or 35 feet would be correct because it's 30 feet plus.

MR. DITTBRENNER: No, it's not correct.

MR. BABCOCK: It's a little bit off there but that's okay.

MS. MENKENS: Mr. Kean is upset about this fencing that I have up, it's a wind breaker and it controls debris, it's just made out of plastic. I took a picture of it along Mr. Kean's property line, I did so so you could see and I can tell you why I have that up there. First of all my children play out back and I put the fence up so that they would know how far they could go because if they went any further than that fence they would have a 15 foot drop onto the debris that Mr. Kean has been dumping there to grade the railroad bed, so that's why I have that plastic fence up there for my children's protection. I don't know if I need a permit

for it, if I do I'll file for one. Next one was a picture of the sign that I have, when I went for my certification for the New York State Health, Horse Health Program, I needed to have a stable name and I needed to have a phone number so in case there was an emergency someone can contact me right away. I am not running a business out of the barn. I also have other signs, they're on the property, caution, kids, my back yard's a certified habitat and of course the no trespassing and one of the most important is keep the gate closed. If I need a permit for the sign I'll apply for one, I don't know if I need one or not cause the sign is the size of a typical real estate sign. Okay, want me to keep moving on?

MR. KANE: Yes.

MS. MENKENS: The next picture I have was Mr. Kean said that I was storing manure around my well and manure by law has to be at least 100 feet away from the well, what I have here is a picture of my well which has a 6 foot by 6 foot fence around it and it also shows that there's no manure storage there whatsoever. I pick up the manure every day so nothing sits around on the property. Mr. Kean also stated that when it rains the manure is contaminating his pond. His pond is a half a mile from my property. When it does rain--

MR. KRIEGER: So although he lives three miles away he has a pond that's only a half a mile away, is that correct?

MS. MENKENS: To ensure that there's no manure contamination we built a rain pond what it does it fills up when it rains and then when it stops raining in three or four days the pond drains. Here's some photographs of the rain pond. This was all done because AEM soil and Orange County soil and water had said that this was the best practices. My last one is a Orange County tax map, it has in green my farm in

May 12, 2008

10

blue Mr. Kean's property and in purple is the other horse farm. Their horse farm's quite closer than mine. I sent a letter to Mr. Kean requesting that he stop trespassing.

MR. KANE: That has nothing to do with us, ma'am.

MS. MENKENS: He accused me of taking down a historical fence, the historical fence is a rotted old barbed wire fence which I needed to take down on my property because my children play out in the back yard. He talked about the millions of pounds or thousands of pounds a year of manure. This is my manure bucket, with two horses I fill this bucket once a day, bring in an additional horse would actually add half more bucket and I have a cart that's 8 x 4 and the cart takes three weeks for me to fill up to transport to Ace Farm. I'm done.

MR. BABCOCK: Mr. Chairman, just a little to clarify one thing I think the board members know I don't know if Andy's getting all this stuff, she made a statement that Mr. Kean lives three miles, he should look at that because that's as the over the road, yeah, you know, you have to go out Toleman, down 207, back in Station Road back to his house.

MR. KANE: But according to this drawing she gave you can see that his property comes just within her's right up there so I mean he basically has a right to bring up what he wants to, he's within that zone.

MS. MENKENS: Absolutely.

MR. KANE: Yes, I already picked that up, Mike.

MR. KRIEGER: Yeah, the question of where he actually is domiciled is not really germane to the discussion, he has property, what he does with his property and where he's cited his residence is no business of the

May 12, 2008

11

zoning board.

MS. MENKENS: Well, I think it's also important to let people know that because he claimed that he could have saved the integrity of my neighborhood when in fact the integrity has rebounded wonderfully, there's four children more in the neighborhood playing with my children, we hang out and it's a pleasant atmosphere.

MR. KANE: Okay. I'll accept a motion, that's where we're at.

MR. BEDETTI: I'll make a motion that we grant the variances for the extra horse and removing of the electric fence to the existing wooden fence.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	NO
MR. BEDETTI	AYE
MR. TORPEY	AYE

MR. KANE: Before I vote one stipulation on your thing it says that the horses are, variance to permit three horses to be maintained 20 feet from side, rear and front property lines, I would suggest that the wooden fence be kept the way it is where there's only 20 feet at one point and it goes out to 30 to 70 that that doesn't move out if it's approved moved out to--

MS. MENKENS: It's going to stay where it is.

MR. BABCOCK: It's got to be per the plan that she's submitted.

MR. KANE: Right, per the plan that she's submitted. Is that okay with you? Make that addition to your motion?

May 12, 2008

12

MR. BEDETTI: That's fine.

MR. KANE: I vote aye.

MS. MASON: Motion is carried.

April 28, 2008

30

DEBORAH_MENKENS_(08-11)

MS. LOCEY: Request for one additional horse and variance to permit three horses to be maintained 20 feet from the side, rear and front property lines in an R-1 zone.

Ms. Deborah Menkens appeared before the board for this proposal.

MS. MENKENS: Deborah Menkens, 1 Sean Court, Rock Tavern, New York.

MS. LOCEY: Okay, Mrs. Menkens, if you want to explain the application.

MS. MENKENS: Currently, I have an electric fence on my property line 75 feet maintain two horses, I would like to take down the electric fence and get a permit for the wooden fence which would give me .6 acres and bring in a third additional horse.

MS. LOCEY: So currently you're allowed two horses on this size lot?

MS. MENKENS: Yes and I currently have two horses.

MS. LOCEY: And you want to bring a third horse onto the property and to give them more grazing room, more room to--

MS. MENKENS: More exercise room, I supplement their food so they don't rely on the paddocks for food.

MS. LOCEY: And you want to take down the--

MS. MENKENS: The red line is the electric fence which I have a permit for to maintain them, I would like to take that down and keep the, use the wooden fence to maintain them off the property line. And the variance

that you have here says 20 foot, 25 feet.

MS. LOCEY: Twenty.

MS. MENKENS: Actually, it's different footage at different parts of the property.

MS. LOCEY: Is 20 the minimum?

MR. BABCOCK: Yes.

MS. LOCEY: So you have at least 20?

MS. MENKENS: Twenty-five.

MS. LOCEY: Twenty-five or more depending because of the shape?

MS. MENKENS: Twenty-five to 78.

MS. LOCEY: And the electric fence is invisible?

MS. MENKENS: No.

MS. LOCEY: You can see the electric fence?

MS. MENKENS: Yes.

MS. LOCEY: But would it cause any substantial change to the, to what a person sees as he or she walks or drives by?

MS. MENKENS: Yeah, it's sort of an eyesore.

MS. LOCEY: So it would improve the aesthetics of the building?

MS. MENKENS: Of the environment, yes.

MS. LOCEY: And the existing wooden fence that you have

would remain in the same location?

MS. MENKENS: Yeah, but it wouldn't be moved because they're cemented down, the posts are cemented down.

MR. DITTBRENNER: Is that fence that the brown line fence does that meet the requirements to contain a horse on the property?

MR. BABCOCK: That's why she's here tonight, we asked her to put up the electric fence because that didn't meet the current zoning which requires the fence to be 75 feet from the property line.

MR. DITTBRENNER: But is there a style and height of the fence?

MS. MENKENS: It's 54 inches high, it's about this high and the posts are 6 feet apart and each post is cemented into the ground.

MS. LOCEY: And the application, the electric fence makes her comply with as far as the distance.

MR. DITTBRENNER: The 75 foot setback.

MS. LOCEY: Mr. Bedetti, any further questions?

MR. BEDETTI: I only had I think one question. Now where your house is that's a separate parcel from where your stable is, is that correct, or do you have one large parcel?

MS. MENKENS: It's an L-shaped.

MR. BEDETTI: So it is one?

MS. MENKENS: It's not subdividable, no, it's one continuous property.

MR. BEDETTI: So your house and where your stable and your walking yard is whatever for the horses is all one parcel?

MS. MENKENS: Yes.

MR. BEDETTI: Okay, now with the picture there the way it was blocked off I didn't know whether that was a separate parcel or not.

MS. LOCEY: The entire parcel is 2.346 acres.

MS. MENKENS: Which is part here, the entire parcel is 4.149.

MS. LOCEY: So you have 4.159 acres, 2.26 is where you keep the horses?

MS. MENKENS: Right.

MS. LOCEY: And the existing electric fence gives the horses only 1.65?

MS. MENKENS: Something to that effect.

MS. LOCEY: And you're looking to give them 2.35?

MS. MENKENS: Yes.

MS. LOCEY: A larger area in which to graze and roam?

MS. MENKENS: Yes.

MS. LOCEY: Perhaps we can open this application up to the public, if there's anyone here wishing to speak please come forward and we just ask that you speak loud enough for the stenographer to be able to hear and for you to identify yourself, name and address.

MR. KEAN: My name is Peter Kean, K-E-A-N and this is

my daughter, April. My address is 1 Brittany, B-R-I-T-T-A-N-Y Terrace, Rock Tavern, New York. April, what's your address?

MS. KEAN: 6 Beach Acres Drive, Rock Tavern, New York.

MR. BEDETTI: What is the address?

MS. KEAN: 6 Beach Acres Drive.

MR. KEAN: Now I'm a little hard of hearing so if you have anything to say or somebody asks me a question and I give you a funny answer, it's probably because I didn't understand you. I will just read through this, this is a letter and supporting documentation in opposition to granting Deborah and Lawrence Menkens' variance from setback requirements for the keeping of horses and in opposition to the request, their request she keep a third horse on the property. We would wish to advise the zoning board that we did not receive notification of this public hearing nor did we receive notification of the April 9, 2007 public hearing.

MS. LOCEY: Seven?

MR. KEAN: Seven.

MS. MASON: Different application.

MS. LOCEY: That's a different application.

MR. KEAN: I understand that but I mean this is twice in a row on the same request and Miss Menkens certainly knows I own property adjacent to her.

MS. MASON: Well, the assessor does the list.

MR. KEAN: I understand that and I spoke to the assessor and spoke to the supervisor and I spoke to everybody.

MR. BABCOCK: The first meeting was a preliminary which you wouldn't get notified about that.

MR. KEAN: I'm not talking about this one, I'm talking about the public hearing last year.

MR. BABCOCK: Okay.

MS. MASON: That was the previous application.

MR. BABCOCK: Yes, okay.

MR. KEAN: Well, anyway, continuing on. Since the last hearing two of the objecting neighbors have moved and the third one has now put their house up for sale. Had we been notified of the previous meeting we might have been here to prevent the upheaval of three families. We read with interest the minutes of the last public hearing and the minutes of the March 10, 2008 preliminary hearing. Much of our presentation contradicts statements made by Deborah Menkens, except for the November 6, 2007, excerpt from the November 6, 2007 New Windsor Comprehensive Plan Update, this is a draft of the proposed comprehensive plan basically and I will not read it all, this section encourages the Town Board and the planning board and the zoning board to cooperate in the establishment and coordination of land uses. Section 6 Agriculture, specific recommendation for agriculture, revisit current regulations relating to housing and maintaining horses in the Town Zoning Code to assure adequate space buffering and the well-being of animals. Land requirements should incrementally increase on a sliding scale based upon the number of horses. So, if you need X number of land for a single horse, you need 3 X for three horses. The appropriate section is included in reference so if you go to Reference A I have the entire appropriate section for that clause. Okay, B, Deborah Menkens appeared before this board in 2006 requesting a

setback variance for the keeping of horses. At that meeting, we provided a scaled drawing supporting a letter prepared by William Hildreth, land surveyor. The scaled drawing letter and map are included as Reference B so if you'd being kind enough to go over to B. The pink or the red borderline is the Menkens' fence, the wooden fence. The green is where she has her electric fence. But when I was over there standing on my property and walking around I didn't see any electric fence which is not to say it's not there, I saw a lot of rope. The brown on the right side on the right side of the page is where they're spreading manure so they're spreading manure all along our property line, that's lands of Kean on the right-hand side all along the side border which is border with David Shield and some around on Sean Court side but not very much there. There's substantial differences in the northern property line setback claimed by Menkens and those documented by the maps of the American Telephone and Telegraph Company as well as those of the New York, Ontario and Western Railway whose property now belongs to Kean. And they're included in Reference C if you just look at the first one you'll see pretty technical map of the borders.

MS. KEAN: Right, when you look at the railroad map the pink line is the actual property line and highlighted in yellow that's actual marker that's there from the railroad company that's still on the property marking the corner of the property.

MS. LOCEY: I don't understand that point, what's that point you're making?

MS. KEAN: We'll reference that when we get to the next picture because her measurements are passed that, they're based coming off of our property.

MR. KEAN: Menkens mistakenly claims a north boundary 12 to 15 feet beyond the actual property line or

boundary line.

MS. KEAN: Meaning and referring to that marker, that's why we put the maps in there for you to reference.

MR. KEAN: And she has caused to be obliterated a railroad installed wire mesh fence with posts that had been in place for close to 100 years. Furthermore, she's installed a green plastic mesh fence, numerous high visibility ribbon markers and a string line where she believes her property line to be. She also placed numerous paper signs along her assumed boundaries stating no photographs allowed without permission of the Menkens.

MS. LOCEY: Okay, well--

MR. KEAN: And I have a picture, I didn't provide it.

MS. KEAN: Would you like me to explain to you on that?

MR. KEAN: This is pretty technical but I'm more than halfway through, okay. I'm sure everybody knows about the present accessory use requirements for horses on a small lot. But as a point of interest, I just would like to mention that the average 1,000 pound horse generates 45 pounds over feces and urine a day or 8 days per horse per year three horses would be 24 tons or 48,000 pounds of manure. When we look at some of the pictures after the map that show the approximate property line that I have drawn in an arrow, if you look tab C which refers to the map and there are two pictures after that and that's it, the first one has a property line and the second one also has the property line marked on it different angles and the first picture in that sequence is the AT&T installed line marker, okay. And moving on to D on September 18, 2006 we mailed Menkens two duplicate letters, one sent certified mail and the other sent regular mail with a certified, excuse me, with a certificate of mailing

from the United States Post Office. The certified letter was returned to us as unclaimed after three attempted delivery periods over two weeks. The letter advises Menkens that they're trespassing on land owned by us and request that they cease their trespass activity. Copies of the receipts, unopened certified letter envelope and the letter are included as Reference D. You also have the letter. Going to E, Reference E, photographs of the Menkens' stable driveway off Sean Drive. The sign clearly indicates a commercial enterprise and does so in a location that is not visible from a town road. You can read the sign with a telephoto lens. F, quoting the zoning code R-1 bulk use regulations, 5 acre minimum lot size. Now, I understand clearly that's for a commercial operation but what's interesting about it is it requires that there are no spreading of manure within 50 feet of my lot line. Reference F which is the next couple pictures are photographs of the area Menkens uses for spreading manure, this area is also marked on Reference A scale setback map which you saw earlier, that's the one with the colors on the front of it. Can I go to G?

MS. LOCEY: Yes.

MR. KEAN: G, the Menkens' water well is now in violation of New York State Public Health Law number 206 (18), included in table one required minimum separation distances to protect water wells from contamination as their well is located within the area where horses are kept. All field dropped and spread manure and urine washes into a stream on Kean property which is less than 100 feet from the property line. It then flows as a stream into a very clean private lake. We're very concerned with nutrient loading to the lake and its resultant plant, weed and algae growth as well as pathogens and parasites. It would seem to me that according to health law and I'm not an attorney and don't profess to be one is that they have violated their Certificate of Occupancy. Reference H contains

various information on manure management and herd bound horses. A herd bound horse can easily be rehabilitated. All it requires is diligence, patience and continuing effort. Also enclosed is a chart of problematic manure disposal techniques, some of which the Menkens practice. With regards to the, I don't believe I said this so I'm repeating, please forgive me, with regards to the proposed code changes with the master plan from the town being revised in view of the public safety and health issues involved consideration of the comprehensive plan, recommendation for a moratorium accommodations for the ZBA variance approvals for keeping of horses should be established. Perhaps the ZBA could seek input from the Town Board and town attorney as well as your own attorney. Okay, and that's what I've got.

MS. LOCEY: Very detailed presentation, thank you. Are there other people in the audience to speak on this application? If not, we'll close the public portion of the hearing. Yes, Myra, would you please read the mailings.

MS. MASON: On the 14th day of April, I mailed out 23 addressed envelopes and had no response.

MR. KRIEGER: The record should also reflect that the zoning board has received 5 post cards, 4 of which state, I/we are aware of the request that Deborah Menken is making to the Town of New Windsor Zoning Board of Appeals. I/we have no objection to her request for the fence line or the additional horse on our property. That is the text of 4 of the cards signed by 1, 2, 3, 4, 5 persons. The fifth card has been altered to read I/we object to her request for the fence line or the additional horse on her property and that one is unsigned, although it indicates that the person who wrote that card said I will be at the meeting to see how many rejections to this request are stated. Anyway, those cards should also become part of

the record.

MS. LOCEY: We seem to have a discrepancy on lot lines and the distance between the existing fences and what's stated to be the existing line lot lines. The public portion of the meeting has been closed. Does the building department have any knowledge of that?

MR. BABCOCK: I have the survey that was supplied to me by Mrs. Menkens done by a certified surveyor, and the 20 foot in the back of her property it indicates that this fence that she's asking to be, the fence to maintain the horses is 23.5 feet. If you come along the Decker property line at some point there there's a drain right at the corner, we estimated that to be approximately 20 feet and that's where we got our number from and used that as the closest distance to any property line. It's the worst case scenario of any of the fence. We didn't as Mrs. Menkens stated before we didn't say at one corner it's 75 feet, at one corner it's 32 feet, the next corner it's 30 feet and so on and so forth, we took the worst case scenario which we said was 20 feet. Do you have, I don't know if you have this cause this is something that you, that we wouldn't normally copy?

MS. MENKENS: I had this survey also done because the zoning board asked me to have this done because of the lot line.

MR. BABCOCK: The 25.5 feet is indicated here, that's the indication of the closest property line but right here we scaled that down as being 20 feet, that's where we got the number, this is the closest she is to this fence, the fence she wants to use, this is the wood fence that goes along here but this point is 30 feet, 32 feet, here it's substantial, 70 feet, 40 feet, you know.

MS. LOCEY: Where is the property of Kean?

MR. BABCOCK: Kean is back here.

MS. MENKENS: And--

MR. BABCOCK: This is the AT&T line he had discussed.

MS. MENKENS: And also the cow fence that he was talking about runs along my property line there and it's grown into the trees and brush.

MS. LOCEY: I would like the other board members to see that.

MS. MENKENS: Can I ask why wasn't he on the addresses?

MS. MASON: I can answer that, I don't do the list.

MS. LOCEY: I think that we should make a notation to the, a note to the assessor's office that it's been a problem in the past if and when there should be any further applications they should be on the list.

MR. BEDETTI: Is this the only map you have relative to surveys? Did they present a map that conflicts with this map at all?

MR. BABCOCK: I don't know that Mr. Kean is saying that the survey is incorrect, I think what Mr. Kean--

MR. BEDETTI: Well, the question of where the property lines are in dispute.

MS. MENKENS: It's amazing that it's incorrect cause it was done by one of his residents at the trailer park.

MS. LOCEY: I really would like to caution everyone I don't want this to turn into a battle of the neighbors here, we're here to objectively look at the application and to make our decisions rendered on the information

we have, not on the likes and dislikes of each neighbor.

MR. BABCOCK: I don't know that the survey's not correct or incorrect and I shouldn't have spoke for Mr. Kean, I think where the discrepancy is where is that property line out there he feels the property line's here, she feels it's here, that's something that they have to deal with. I don't know whether he's got a survey that's contrary to that survey or not and he may have, I mean, we've had that in the past.

MR. KRIEGER: There's some kind of a survey in your handout there.

MR. BABCOCK: Yeah, I have it.

MS. MENKENS: Which one's right?

MR. KRIEGER: Well, if there are boundary disputes between properties that's a matter for court resolution, it's not a matter that's zoning board of appeals has jurisdiction to decide one way or the other in terms of resolving that dispute. The location of the boundary however is a factor that they can take into, its members can take into account when deciding how substantial the variance request is which is one of the requirements of the law and should be decided whether the variance is substantial or not and certainly the location of the boundary line may or may not play a part in your thinking as to whether it's substantial. The law doesn't provide any guidelines for any benchmarks for substantial, you know, it's X number of percentages substantial X below that is not substantial, it doesn't say that just says substantial so that becomes a matter to be decided within the sound discretion of each zoning board of appeals member who's voting.

MS. LOCEY: Right. Mrs. Menkens, I should remind you

that there are only three members of the board here, we have a five person board and you must receive a majority vote of that. That means all three members here would have to vote unanimously in order for your application to pass. And you do have the right to ask for a continuation of the public hearing to a date in the near future when hopefully we'll have five members here.

MS. MENKENS: Do I have to do the public hearing and wait for the five members?

MS. LOCEY: No, the public portion and I'm not the attorney, he is, and he'll tell me if I'm wrong, the public portion of the hearing is closed.

MR. KRIEGER: The additional members would read the minutes and indicate whether they need other materials that haven't been submitted and would indicate each of those members would indicate whether or not they feel that's sufficient to allow them to make a decision.

MS. MENKENS: I wouldn't have to do a public hearing?

MR. KRIEBER: No, you would not.

MS. MENKENS: I'll postpone it.

MS. LOCEY: I think the record should just show that the applicant has asked that the public hearing be continued until time in the near future till May 12th.

MR. KRIEGER: So it would require--

MS. LOCEY: Tell you the truth, I will not be here May 12, you already know that.

MS. MENKENS: Can you, can you vote--

MS. LOCEY: I would not be able to vote in abstentia.

MS. MENKENS: No, I can't keep putting it off any further, I'm going to have to get rid of them.

MS. LOCEY: I think that we have two parts of this application, one is for a request for an additional horse and the second is that the fencing, the electric fence for all intents be allowed to be taken down to give those animals whether it be two or three more room to roam, feed, so it's up to you, if you want the board to move forward or if you do want to continue it there will most likely be four members here but I know I'm on vacation.

MS. MASON: Just so you know, I think there's only one meeting in May which would be the 12th cause of the holiday.

MS. LOCEY: I also want to say that we really got kind of got into the nitty-gritty of this, you gave us a little basic summary of what it is you're looking for, some comments were made as far as pictures advertising a business, the board really would need to address the issue is this for your personal family, which is what we were told in the past?

MS. MENKENS: Right, what happened, now I understand what happened was I had a sign made up because I wanted to be certified by the New York State Horse Health Association which I have been two years now best practices in horse care and I had keep putting every morning I put tape over it and every afternoon when I go back the tape is ripped off, I'm putting tape back over it because it's not a business, it's a private facility and the tape keeps getting ripped off. Now I know why the tape's being ripped off.

MS. LOCEY: Again, that doesn't explain to me why you're doing that, I know you want to be certified by this.

MS. MENKENS: New York State Health Association, they require that.

MS. LOCEY: Do they require that you're a commercial business?

MS. MENKENS: At this point it is but no longer.

MS. LOCEY: Where is the sign now?

MS. MENKENS: It's next to my fence because I need to have a sign, that was one of my standards for certification.

MR. BEDETTI: I have two questions, number one is from a legal point of view, claims that he did not get notification on even this meeting. What are the ramifications of that regardless of how we vote one way or the other, could that cancel out our vote and be challenged at a later date?

MR. KRIEGER: If it were challenged in an Article 78 most likely outcome would be in my opinion that a Supreme Court would send it back for another hearing and they may not, there's also a doctrine called harmless error, since the applicant did not receive notice, the objectant did not receive notice is here and made a presentation, it may, probably would render it a moot point which had he not been here that might have had a different outcome had it gone to court. You're asking me a couple what-ifs here but the answer to your question is probably not.

MR. BEDETTI: The other question I had was relative to the handling of the manure and some photographs here, it shows the distribution like it's near her property and if you're going to be getting an extra horse you may get an extra horse and obviously will be additional materials to handle, what kind of plans do you have

relative to handling that?

MS. MENKENS: What I have done these last two weeks is spread manure because where you see this I'm growing corn, we're, TR'ing it into the soil, do you know what a TR is? It turns the soil as you go, we're putting cornfields around the paddocks. But normally I put it on the black wagon that we have and we cart it to Ace Farm, the chicken farm in Monroe.

MR. BEDETTI: Is that in violation of the code the distribution of the manure?

MS. MENKENS: I don't know.

MR. BEDETTI: Mike, are you aware of it?

MR. BABCOCK: As far as the health code I don't know but I do know that in this attachment that Mr. Kean provided there's a section of the town ordinance that says that it cannot go within 50 feet of a property line. It's clearly within 50 feet of the property line because it's on the outside of the fence and then in that area the fence is approximately 31 feet from the property line which brings up an interesting point that if the fence is allowed to stay where it is even the horses are going to be within the 50 feet.

MS. MENKENS: I don't understand why Mr. Kean brought up past meetings, I don't know what he was trying to accomplish by bringing up those.

MS. LOCEY: We're just focusing on this application just to reassure you of this.

MS. MENKENS: So your decision will be made on the past things that he's brought up?

MS. LOCEY: No, on information we have in front of us now.

MR. BABCOCK: There's a survey that was supplied that's different, it's done by Bill Hildreth that Mr. Kean has in his package here. The one corner on the survey supplied by Mrs. Menkens is 30.7 feet, Bill Hildreth says it's 32 feet the fence so it's real close.

MS. LOCEY: The one that says 32 feet is by whom?

MR. BABCOCK: By a surveyor I assume that Mr. Kean hired and then in the middle it says Mrs. Menkens says 30.5, his says 31, so there's five, no, it's five inches, six inches, it's half a foot and the other one is 23 foot 5 and the Mr. Kean's survey says 23 foot so that's half a foot so Mr. Kean's surveyor is saying that Mrs. Menkens' fence is six inches closer in two spots to what her surveyor is saying.

MS. LOCEY: All right, also reference was made to the New Windsor 2007 Comprehensive Plan Update (Draft) dated November 6, 2007, I wonder if that's been finalized?

MR. BABCOCK: No, it has not.

MS. LOCEY: So it's still a draft.

MR. BABCOCK: One question I have for Mr. Krieger and I don't normally get into that but on this one section where it says that no manure or odor producing should be 50 feet which is in the town zoning code.

MS. LOCEY: Which section?

MR. BABCOCK: It's the bulk table, I'm trying to find it now, R-1 zoning, it's at the end of Tab F.

MR. KRIEGER: Yes.

MR. BABCOCK: If the fence is allowed to be closer than

that 50 feet would she need a variance of that section of the bulk tables? It's under F, the last page in F it's the R-1 table of use bulk regulations saying that it can't be within 50 feet of any property line.

MS. LOCEY: But what is it?

MS. MENKENS: The manure.

MR. BABCOCK: Says manure, storage of manure.

MS. MENKENS: That's what I read it as storage of, why can't you spread it as fertilizer for my garden?

MR. KRIEGER: No, it says stables, stable or similar animal housing or storage, not only storage, it's--

MS. MENKENS: I'm fertilizing.

MS. LOCEY: Well, the stable and/or housing for the animals are not within 50 feet.

MS. MENKENS: No, they're like 100 or 200.

MS. LOCEY: But there's obviously the potential of manure being closer than 50 feet because if the animal uses that area.

MS. MENKENS: They're allowed to use the wooden fence line, yes, they'll be poohing along the fence line cause that's their habit.

MS. LOCEY: Would it then be required that that be removed?

MS. MENKENS: I do remove it daily.

MS. LOCEY: On some sort of routine basis?

MS. MENKENS: I do daily.

MS. LOCEY: Otherwise, it could be considered storage.

MR. KRIEGER: Yes, that's a good point, yes, it might be considered storage. Now the question is how long does it have to remain to be considered storage? Well, I can't tell you off the top of my head whether there's any--

MR. BABCOCK: Well, I think the ordinance requires that the fence be 75 feet from the property line so when you're complying with the ordinance you don't have that issue because everything's 75 feet from the property line. When you reduce that, I mean, I wasn't even aware of this, I mean, I didn't read this section of the code, the 50 feet because normally we maintain it 75 feet from the property line. I just want to make sure we're covered, that's all, on what we're asking for or not asking for and I know that that's, I read it a few times and it's unclear to me.

MR. KRIEGER: Well, yes and it's because of the storage questions, I indicated I'm aware of no reporting cases on that and I frankly doubt that there are any frankly which would mean that the use or interpretation of the word storage at this level would be up to the members, what is storage, if it's there on the ground an hour a day two days a week, you know.

MR. DITTBRENNER: It also includes at the end of that sentence or use, we're using it to fertilize to try and grow grass or corn or whatever, I believe it falls within that definition.

MR. KRIEGER: Yes or use that would also be a--

MR. DITTBRENNER: Which then I think leads us to we would need a variance based on that.

MR. KRIEGER: A use variance, I believe so.

MS. LOCEY: Well, a use variance based on what she's done at this point and that's spreading the manure.

MR. DITTBRENNER: And will continue to happen and what will continue to happen when you expand the fence lines closer to the--

MS. LOCEY: No, I don't agree with that because if she's not spreading it you don't have the same predicament.

MR. DITTBRENNER: Then you come back to what's the definition of storage.

MS. LOCEY: Exactly.

MR. BEDETTI: That permitted use starts off with following commercial agricultural operations.

MS. LOCEY: That's true too.

MR. BABCOCK: If you read on 1A, 1B and 1C it deals with boarding, breeding, raising of cattle, including sheep, goats, pigs and horses and rental of horses so another issue that's not real clear there my understanding it's not a commercial operation.

MS. LOCEY: Mrs. Menkens, we're back to your pleasure.

MS. MENKENS: All right, I'm going to ask you one more time if I wait do I have to do the public hearing again?

MS. LOCEY: No.

MR. KRIEGER: No.

MS. LOCEY: The public portion of the public hearing is closed, you will not need to send out or have sent out

notices to adjacent property owners.

MS. MENKENS: Just come again.

MS. LOCEY: And the board will render a decision.

MR. KRIEGER: And the additional members will indicate whether they can vote.

MS. LOCEY: Based on their readings.

MS. MENKENS: I would like to adjourn it.

MS. LOCEY: Continue it?

MS. MENKENS: Continue it as long as I don't have to do a public hearing again.

MR. KRIEGER: No, you don't.

MS. LOCEY: Myra makes a good point that the public hearing will be continued to May 12, 2008.

MR. KRIEGER: You need a motion to that effect.

MS. LOCEY: We'll take a motion.

MR. BEDETTI: The decision has been made to move this to another date.

MR. KRIEGER: No, no, the motion, it's not the decision has not been made till you vote, the recommendation is that this matter be tabled until May 12.

MR. BEDETTI: Is that what you want, were you looking to table this?

MS. MENKENS: No, I wasn't, I was coming here tonight looking for an answer.

April 28, 2008

52

MR. KRIEGER: Well--

MS. MENKENS: But--

MR. KRIEGER: The reason I say tabling, it's a legal term, continuation has no legal meaning, it's tabling.

MR. BEDETTI: But she's, it's her intent to go on for us to take a vote tonight.

MS. MENKENS: I'm afraid to after this, I'm devastated, he does this to me, I just, I don't know what I've done.

MR. BEDETTI: So you don't want to go on tonight?

MS. MENKENS: No, I can't take the chance, I'm sorry.

MS. LOCEY: We'll take a motion.

MR. BEDETTI: I'll make a motion we table this issue for a time till May 12 to table this until May 12.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER AYE

MR. BEDETTI AYE

MS. LOCEY AYE

FORMAL DECISIONS

MS. LOCEY: We do have one final item on the agenda which is to make formal decisions for various application that have come before the board at previous meetings. We have the option of putting all of them in one fell swoop with one motion to accept these formal decisions as presented.

MR. BEDETTI: I wasn't a member of the board when these were done in 2007 so--

MR. KRIEGER: Legally speaking you may but you do not have to recuse yourself on those grounds, that's your decision. If you feel that you cannot render a decision even after reviewing the minutes and so forth then you may recuse yourself but you don't have to as I say.

MS. LOCEY: Or if you're more comfortable we can table this issue till May 12.

MR. BABCOCK: Well, quite honestly we have to give that some thought because if you're not going to be here on May 12, there's only two existing members so these gentlemen some day are going to have to vote on this.

MS. LOCEY: These are formal decisions as finalized by an attorney, by the attorney after the decisions the board publicly made at a meeting similar to this evening.

MR. BABCOCK: This is the written decision that goes in the file, typically everyone as you can see Jerry's Self-storage it's almost built, you know, I mean, it's a written followup that goes into the file just to make everything legal and if there were any issues with them they wouldn't be on here tonight.

MR. BEDETTI: All that's nice but after I read the

decision on something I was not a part of doesn't make sense.

MR. KRIEGER: For the same, basically, it's the same principal when they have elections and town boards change, they're legally bound by what the last town board did, whether they were a member or not, they don't get to redo or re-decide anything and they're bound by it. Otherwise, if the law were otherwise then it would come to, everything would, all procedures would come to a screeching halt as soon as you had a new member.

MR. BABCOCK: But if we save this until June when the three existing members are here is what we'll have to do hopefully there's no conflict between now and then.

MS. LOCEY: Or we can call for a motion and see if it passes tonight.

MR. BABCOCK: That's correct.

MS. LOCEY: Myra has offered to send you gentlemen copies of the formal decisions which you can compare to prior minutes to make sure.

MR. KRIEGER: Yes but but then you'd have an opportunity to review the minutes and so forth and familiarize yourself as opposed to being--

MR. BEDETTI: That moves us closer to the June date, all right.

MS. MASON: Well, if I do that it would be before the May 12 meeting.

MR. BEDETTI: We would not be voting accepting these until the first meeting.

MS. MASON: Right, which is May 12.

April 28, 2008

55

MR. BEDETTI: That's the only meeting in May, next meeting would be June.

MS. LOCEY: So do I have a motion to either approve the formal decisions or ask that they be tabled until May 12 which would you prefer?

MR. BEDETTI: I will make a motion that we table till May 12 the formal decisions listed here on the agenda.

MS. LOCEY: Do I have a second? Motion fails for lack of a second. I will offer a motion to accept the formal decisions as indicated on the agenda of the Zoning Board of Appeals meeting dated April 28, 2008.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	ABSTAIN
MS. LOCEY	AYE

MS. LOCEY: Motion fails for lack of a quorum.

MR. BABCOCK: We're going to put them on the May 12 agenda.

MR. KRIEGER: Chairman Kane, it's his call what goes on the agenda, if he wants to put them back on the agenda.

MS. LOCEY: Motion to adjourn?

MR. BEDETTI: So moved.

MR. DITTBRENNER: Second it.

ROLL CALL

April 28, 2008

56

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer



RESULTS OF Z.B. MEETING OF: May 2008

PROJECT: Debra Moxness

ZBA # 08-11

P.B.# _____



USE VARIANCE:

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____

DITTBRENNER _____

BEDETTI _____

LOCEY _____

TORPEY _____

KANE _____

CARRIED: Y _____ N _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

DITTBRENNER _____

BEDETTI _____

LOCEY _____

TORPEY _____

KANE _____

CARRIED: Y _____ N _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____

DITTBRENNER _____

BEDETTI _____

LOCEY _____

TORPEY _____

KANE _____

CARRIED: Y _____ N _____

APPROVED: M) _____ S) _____ VOTE: A _____ N _____

DITTBRENNER _____

BEDETTI _____

LOCEY _____

TORPEY _____

KANE _____

CARRIED: Y _____ N _____

☐ ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

DITTBRENNER _____

BEDETTI _____

LOCEY _____

TORPEY _____

KANE _____

CARRIED: Y _____ N _____

☒ *Continuation*

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES _____

VARIANCE APPROVED: M) B S) I VOTE: A _____ N _____

DITTBRENNER N

BEDETTI A

~~LOCEY~~

TORPEY A

KANE A

CARRIED: Y ☒ N _____

AGENDA DATE: _____

Menkens, Deborah

From: J. Todd Wiley [jt Wiley@town.new-windsor.ny.us]
Sent: Friday, May 09, 2008 8:40 AM
To: Menkens, Deborah
Subject: RE: Question?

Only a small portion of Mr. Kean's property is within the search criteria-a portion of his entranceway/driveway. On the tax maps this driveway is bisected by a fire protection district boundary line which gives the appearance that his lot ends at the fire district boundary-however, his lot extends beyond that point. It was a human error. Todd Wiley, Assessor

From: Menkens, Deborah [mailto:deborah.menkens@am.dodea.edu]
Sent: Thursday, May 08, 2008 1:45 PM
To: J. Todd Wiley
Subject: Question?

I was wondering why Mr. Peter Kean's (1 Brittany Terrace New Windsor NY 12553 or 1 Brittany Terrace Rock Tavern NY 12575) name wasn't on the zoning board of appeals mailing list I had mailed out?

Thanks
Deb Menkens
1 Sean Court
Rock Tavern NY 12575

File copy - 5/12/08

5/9/2008



RESULTS OF Z.B.A. MEETING OF: April 28, 2008

PROJECT: Deborah Merskens

ZBA # 08-11

P.B.# _____



USE VARIANCE:

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

APPROVED: M) _____ S) _____ VOTE: A _____ N _____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y _____ N _____

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES ☒
VARIANCE APPROVED: M) B S) D VOTE: A _____ N _____

Dittbrenner

~~VOLPE~~ A
~~BEDETTI~~ A
~~LOCEY~~ A
~~TORPEY~~ _____
~~KANE~~ _____

Tabled to May 12th, 2008

CARRIED: Y ☒ N _____

Peter Kean should have been notified

AGENDA DATE: _____

TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS

PUBLIC HEARING FOR: Deborah Mertens

DATE: 4/28/08

SIGN-IN SHEET

	NAME	ADDRESS	PHONE NUMBER
1.	Peter Kean	1 Brittany Terrace	
2.	April Kean	16 Beach Acres Dr.	
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			



1763

TOWN OF NEW WINDSOR

TOWN CLERK'S OFFICE
555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553
Telephone: (845) 563-4611
Fax: (845) 563-4670

REQUEST FOR PUBLIC RECORDS

Date: 4-29-08
Name: Deborah Menkens
Address: 1 Sean Court
Rock Tavern NY 12575
Phone: (845) 496-3732
Representing: myself

Please specify:

- **Property location (street address or section, block and lot number)**
- **Department you are requesting records from**
- **Describe information requested as fully as possible**

1 Sean Court
Rock Tavern NY 12575
Peter Kean's notes from zoning
meeting on 4/28/08
Documents may not be taken from office

1 file copy ~~is~~ received by Deborah Menkens on 4-29-08
Clerk of the Town
Deputy Town Clerk
Deborah Menkens

**ZONING BOARD OF APPEALS: TOWN OF NEW WINDSOR
COUNTY OF ORANGE: STATE OF NEW YORK**

DEBORAH MENKENS

AFFIDAVIT OF SERVICE BY MAIL

#07-05

X

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)


That I am not a party to the action, am over 18 years of age and reside at 131 Mt. Airy Road, New Windsor, NY 12553.

That on the 14TH day of **APRIL, 2008**, I compared the 23 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor's Office regarding the above application for a variance and I find that the addresses are identical to the list received. I then placed the envelopes in a U.S. Depository within the Town of New Windsor.

Sworn to before me this

Myra Mason
Myra L. Mason, Secretary

28th day of April, 2008



Notary Public

JENNIFER GALLAGHER
Notary Public, State of New York
No. 01GA6050024
Qualified in Orange County
Commission Expires 10/30/10



New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-3101

Assessors Office

March 24, 2008

Deborah Menkens
1 Sean Court
Rock Tavern, NY 12575

Re: 52-1-79.1 ZBA#: 07-05 (23)

Dear Ms. Menkens:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$45.00 minus your deposit of \$25.00.

Please remit the balance of \$20.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO
Sole Assessor

JTW/rah
Attachments

CC: Myra Mason, Zoning Board

52-1-15.223
JOSEPH JABLONSKI &
THERESA CHEEVERS
467 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-21
JACK DECKER
462 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-22
Vincent Viviani
460 Toleman Rd.
Rock Tavern, NY 12575

52-1-23
RONALD SHIPMAN
448 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-24
ANGELA CABRI
34-19 IRWIN AVE. APT.511
BRONX, NY 10463

52-1-25.22
LAMBERTUS & SUSAN ROOSJE
415 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-26
JEFFREY, ARTHUR, &
SADIE LOBB
436 TOLEMAN RD.
WASHINGTONVILLE, NY 10992

52-1-44.3
LINDA &
ARTHUR NADAS
502 BULL RD.
ROCK TAVERN, NY 12575

52-1-75
ROBERT H. &
ROBERT J. SPARKS
421 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-76
JAMES SCHNEIDER
425 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-77
DENNIS & ROBYN MORGAN
433 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-78.1
JESSICA DIZZINE &
KYLE COLEMAN
439 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-78.21,78.22
ANGELO &
MICHELE SAKADELIS
445 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-79.2
DAVID STEELE &
JOSERA GONZALEZ
3 SEAN CT.
ROCK TAVERN, NY 12575

52-1-79.3
BRETT & KARYN SMITH
8 McCord Ave.
Campbell Hall, NY 10916

52-1-79.4
Carlos Reyes & Rosemarie DeDonno
2 SEAN CT.
ROCK TAVERN, NY 12575

52-1-80
RAYMOND &
KATHERINE BROWNE
461 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-81
LISA THOMAS
453 TOLEMAN RD.
ROCK TAVERN, NY 12575

52-1-107
LESTER CLARK &
HENRY VANLEEUVEN
400 BAMAR DR.
STONY POINT, NY 10980

52-1-111.2
RONALD & ALICIA HOUSTON
4 ROOSJE LN
ROCK TAVERN, NY 12575

52-5-18
ROLLING ACRES FOX MEADOW, LLC
3 JACKSON AVE.
SPRING VALLEY, NY 10977

52-5-23
SILVANO GRECH
151-38 7TH AVE.
WHITESTONE, NY 11357

52-5-24
ARTHUR BEAL &
ROBIN RITNOUR
360 TOLEMAN RD.
WASHINGTONVILLE, NY 10992

PUBLIC HEARING NOTICE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing on the following Proposition:

Appeal No. (08-11)

Request of DEBORAH MENKENS

for a VARIANCE of the Zoning Local Law to Permit:

Request for One (1) Additional Horse and; variance to permit three (3) horses to be maintained 20 ft. from the side, rear and front property lines at 1 Sean Court in an R-1 Zone (52-1-79.1)

PUBLIC HEARING will take place on APRIL 28, 2008
at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York
beginning at 7:30 P.M.


Michael Kane, Chairman

March 10, 2008

4

DEBORAH_MENKENS_(08-11)

MR. TORPEY: Request for one additional horse and variance to permit three horses to be maintained 20 foot from the side, rear and front property lines.

Ms. Deborah Menkens appeared before the board for this proposal.

MR. TORPEY: You know the routine, right? Do the name and address.

MS. MENKENS: Deborah Menkens, 1 Sean Court, Rock Tavern, New York 12575.

MR. TORPEY: What would you like to do?

MS. MENKENS: Receive a variance for an additional horse and receive a variance for the fence line that's existing to house the horses.

MR. TORPEY: So the existing line fence right now is red?

MS. MENKENS: Yes, I have a big picture, do you want me to put it up?

MR. TORPEY: Yes.

MR. BABCOCK: Mr. Chairman, just to clarify a little bit the existing fence that she's talking about--

MS. MENKENS: Is the brown one.

MR. BABCOCK: --is a fence that's permitted by law and she's allowed to have as a normal course having a fence on her property. What the law says is that a fence that you use to restrain a horse is 75 feet from the property line. This particular fence doesn't meet all that criteria, that's why she's here tonight.

March 10, 2008

5

MR. TORPEY: So the brown fence is the existing fence and the red is the electric fence that has to be stepped in?

MR. BABCOCK: That's correct. The red fence is the electric fence that she's put up on a, well, it's a temporary basis so that she can maintain the horses 75 feet from the property line with that fence she would like to take that down which would allow the horses to roam and have a little more area to roam.

MS. LOCEY: What are the green handwritten--

MS. MENKENS: Those are trails that we're working on.

MS. LOCEY: Those are not proposed locations where you want to move the fence?

MS. MENKENS: No, no, fence will be moved.

MS. LOCEY: So you want the fence to remain where the brown line is?

MS. MENKENS: Right, the brown fence will remain where it is and I'd like to take the red fence off.

MS. LOCEY: And the red fence you need to keep the horses 75 feet from your property line, if you didn't have horses the brown line off the property line is within the zoning?

MS. MENKENS: Yes.

MS. LOCEY: So you're looking for a variance to allow your horses less than 75 feet from your property line?

MS. MENKENS: Yes.

MS. LOCEY: Is that correct?

March 10, 2008

6

MS. MENKENS: Yes, it's actually 25 feet on the west side of the property which is right here and it's 35 feet on the north side of the property which is right here and 35 feet off the property line then this corner one's 36 feet off the property line and this corner is 78 feet off the property line and this fence line here is 56 feet off the property line.

MS. LOCEY: Okay.

MR. BEDETTI: Those dimensions that you just read off don't appear on the request, it must be is it because the lines are not parallel to the property lines?

MS. MENKENS: You'll have to ask Mr. Babcock, I don't know why, I didn't ask for a permit 20 feet off the property line, I wrote it out as 25 feet from the west side of the property, 35 feet on the north side of the property line, 36 to 78 east of the property line and 56 feet.

MS. LOCEY: Just to restate, make sure I understand this correctly, if there were no horses involved, the brown line indicates the location of a fence that's legal as far as being--

MS. MENKENS: Yes, I already have a permit for that, yes, there's an existing fence.

MR. BABCOCK: It's a legal fence.

MS. LOCEY: The only reason that she has the red electric fence is to keep the horses 75 feet off the property line?

MR. BABCOCK: That's correct.

MS. LOCEY: And she wants the horses to be able to go as far as the existing brown fence?

March 10, 2008

7

MR. BABCOCK: Yeah, the brown fence is not legal for maintaining the horses.

MS. LOCEY: But it is just to fence your area.

MR. BABCOCK: Just as you could put up a fence for looks, to keep the neighbors out.

MS. LOCEY: I wanted to make sure I understood that correctly.

MR. TORPEY: How long has it been since the last application was denied?

MR. BABCOCK: It was April.

MS. MENKENS: Ninth.

MR. BABCOCK: April 9, 2007.

MS. MENKENS: I want to come back every year.

MS. LOCEY: That was 11 months ago so and she needs what, six months before she can come back for another application?

MS. MASON: Yes.

MR. TORPEY: And the six months is up, right?

MR. BABCOCK: That's correct.

MR. BEDETTI: Can I ask her a question? Now you're requesting a variance to get a third horse?

MS. MENKENS: I have two existing on the property, I'd like to bring a third one home.

MR. BEDETTI: And the reason for bringing another one

March 10, 2008

8

in is?

MR. BEDETTI: Originally my herd was six horses and I gave three away and now I'm down to two that I keep on the property and one that I'm having boarded. The reason for the horses, each one of us in the family rides and also by bringing the third horse in it will allow me to take one horse off the property cause right now my horses are herd bound which means I can't remove both without taking both off the property.

MR. TORPEY: So you're saying--

MS. MENKENS: One will be off the property, my youngest son shows one of the horses.

MR. TORPEY: But there will be three horses at one time?

MS. MENKENS: They'll be sleeping there at night, yes.

MS. LOCEY: On your application just a clarification for myself, there's a lot of verbiage regarding your request to house a third horse on your property but I don't see anything about the fence, am I just not reading something?

MR. BABCOCK: Yeah, on the denial up on the top it says 300-13 accessory uses not more than two horses and then--

MS. LOCEY: On the 75 feet, okay.

MR. BABCOCK: Right.

(Whereupon, Mr. Krieger entered the room.)

MR. BEDETTI: So the new location that you're going to, that you're proposing the 20 feet from the property line is that 20 feet exactly 20 feet all the way around

or are there other dimensions?

MR. BABCOCK: It varies. Do you have the map, remember the map that actually showed that would clarify it there was like a survey I think?

MS. MENKENS: You have it because I didn't bring it with me. All right, I'll go through it again. This is my home here and it's like an L shape right here on this property, this is the yellow is the property line, this fence right here is 25 feet from the property line.

MR. BEDETTI: And that one you're pointing to?

MS. MENKENS: That's the top one, the brown line we're talking about the brown.

MR. BEDETTI: Go ahead.

MS. MENKENS: This back one is 36 feet off the property line, bottom corner here is 36, and then as it gets towards Sean Court this corner fence line is 75 feet, this one here is 78 feet, 36 feet, 78 feet.

MR. BEDETTI: Seventy-eight feet from?

MS. MENKENS: From the property line.

MR. BEDETTI: From the back line and how far is it from the line?

MS. MENKENS: And this line here it's 56 feet from the property line.

MR. BEDETTI: And the other one's what?

MS. MENKENS: This line here is 56.

MR. BEDETTI: And the one on the bottom?

March 10, 2008

10

MS. MENKENS: Seventy-eight and 36.

MR. BEDETTI: When you say 78 you're talking about the whole length?

MS. MENKENS: Starts at 78 and goes to 36.

MR. TORPEY: This picture is showing what you want, not what's there right now, right?

MR. BABCOCK: No, it's there, this wood fence is there.

MR. TORPEY: I know the fences are there but not in this category on--

MS. LOCEY: Yes, they are, the brown fence it's legal if there were no horses, it's within the number of feet from the property line a fence.

MR. TORPEY: I remember seeing it all but--

MS. LOCEY: But a horse has to be 75 feet from the property line.

MR. BABCOCK: This is the fence.

MR. TORPEY: Fence is in.

MR. BABCOCK: This fence is there, this fence can legally be there, just as a fence on your property cannot be used to maintain a horse because the horse has to be 75 feet from the property line so she put this fence in, see this fence, the electric fence, I'm going to show you in a second, Barney, and that's maintaining the horses. Now she wants to take the electric fence down and let the horses go to this fence.

MS. LOCEY: Have a larger area.

March 10, 2008

11

MS. MENKENS: It's .6 more acres.

MR. BEDETTI: Now, the electric fence is 75 feet away?

MR. BABCOCK: That's correct.

MR. BEDETTI: So that's a legal one but you want to open it up?

MR. BABCOCK: Right.

MR. TORPEY: Put the electric fence on the brown fence--

MS. MENKENS: No, when I had the fence built it's cemented in and it's 54 inches.

MS. LOCEY: Just want to take down the interior, the electric fence is to give the horses room, more room to run?

MS. MENKENS: And bring the additional horse home.

MS. LOCEY: One is the variance for the horse fence, the other is for a third horse.

MR. TORPEY: Are there anymore questions?

MR. BEDETTI: Yeah, I do have one. Is there a place to house the horses, do you have a stable?

MS. MENKENS: Yeah, right here is a running shed, barn.

MR. TORPEY: Is that the long building?

MR. BEDETTI: Right.

MR. TORPEY: I think there's another one too.

March 10, 2008

12

MS. MENKENS: There are two of them put together.

MR. BEDETTI: To make the one long one?

MS. MENKENS: Yes and it has a ten foot overhang so when the inclement weather comes the horses have the opportunity of going under the overhang or into their stall and in the stalls they have automatic waterers so there's always constant water for them.

MR. BEDETTI: Now, is this a neighbor that cluster?

MS. MENKENS: Right here is Mr. Decker, here is Brittany Terrace Motor Home, we have a new neighbor here, we have Mr. Steel down here and we have a new neighbor down in this corner.

MR. TORPEY: Are they much happier that everything's grown up and growing now?

MS. MENKENS: Everything's gone.

MR. TORPEY: But new neighbors?

MS. MENKENS: I've got the kids playing with my children constantly, it's been a really nice change. I will have probably Mr. Decker objecting if we have a public meeting and I can explain that if you want me to.

MR. TORPEY: When the time comes. Anymore questions?

MR. BABCOCK: Mrs. Menkens, as far as Mr. Decker's concerned, if you feel that he's going to complain, why wouldn't you want to move the fence from his property a little farther? You're probably the closest to his house.

MS. MENKENS: Yeah, what happened originally when we moved into the neighborhood he had 75 feet at the

property that he thought was his and when we reclaimed the property he wasn't very happy with that. Also there's a drainage pipe that leeches into my property line that goes actually right into the paddock. My intentions were these trees that I have growing here the 16 foot evergreens we were planning on putting along the property line here to give him back his privacy. We haven't gotten to that point because I'm paying for board for a horse.

MR. BABCOCK: Okay.

MS. MENKENS: Also the horses only spend about five weeks in each paddock so if he does object I'd keep the horses in that one paddock, keep the 75 foot electric fence up.

MR. TORPEY: Anymore questions?

MR. BEDETTI: Other than the fact that you would like to have another horse there, what other reason would drive you to do this, I mean, to not stay within the bounds of the requirements for your property, stay with the two horses, especially if you know somebody is going to come in and complain about it? Is there any, is there some demand that you have this third horse other than you'd like to have it?

MS. MENKENS: My youngest child is a special needs child, my youngest son is a special needs child and because of a horses he's come along quite a bit. And in order for me to take his horse off the property I need to have the second horse to keep the other one company because they're herd bound right now at this point and I can't remove and we've tried removing a horse from the property and the other one just goes crazy, he just can't deal with the separation of the one horse. We all ride in our family, we ride as a family, we're close to the Stewart buffer zone so that all we have to do is walk down this road and we hit the

March 10, 2008

14

trails. This is a family activity that we have come to love and they are part of our family.

MR. BEDETTI: Okay, I mean, you're not doing trail rides or renting the horses out with the trail rides?

MS. MENKENS: Absolutely not, this is not a business.

MR. BEDETTI: That's what I was getting to, okay.

MS. MENKENS: This was supposed to be a family--

MR. BEDETTI: I got you, thank you.

MR. TORPEY: Anymore questions? I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Mrs. Menkens for her side yard variance and for an extra or third horse as requested.

MS. LOCEY: I'll second that motion.

ROLL CALL

MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE



RESULTS OF Z.B.A. MEETING OF: March 10, 2008

PROJECT: Deborah Mexlers ZBA # 08-11
P.B.#

P.B.# _____

USE VARIANCE:

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

PUBLIC HEARING: M)_____ S)_____ VOTE: A_____ N_____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y _____ N _____

APPROVED: M)_____S)_____ VOTE: A_____N_____

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) B S) Lo VOTE: A N

~~VOLE~~
BEDETTI
LOCEY
TORPEY
~~NAME~~

A
A
A

CARRIED: Y_____ N_____

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES
VARIANCE APPROVED: M) S) VOTE: A N.

VOLPE _____
BEDETTI _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y_____N_____.

AGENDA DATE: _____

Town of New Windsor

555 Union Avenue
New Windsor, NY 12553
(845) 563-4611

RECEIPT
#156-2008

03/18/2008

Menkens, Bob *ZBA 08-11*

Received \$ 50.00 for Zoning Board Fees, on 03/18/2008. Thank you for
stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: 03-07-08

FOR: 08-11 ESCROW

FROM:

Deborah Menkens
1 Sean Court
Rock Tavern, NY 12575

MONEY ORDER FROM:
SAME

MONEY ORDER NUMBER: 10986898757 TELEPHONE: 914-805-5843

AMOUNT: 300.00

RECEIVED AT COMPTROLLER'S OFFICE BY:

J. Henry 2-18-08
NAME DATE

UNITED STATES POSTAL SERVICE		POSTAL MONEY ORDER		ZBP #08-11 15-000 Escrow	
SERIAL NUMBER	YEAR, MONTH, DAY	POST OFFICE	U.S. DOLLARS AND CENTS		
10986898757	2008-02-07	109960	300.00		
THREE HUNDRED DOLLARS & 00¢			*****		
AMOUNT			NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS SEE REVERSE WARNING		
Town of New Windsor			FROM Deborah Menkens		
555 Union Ave			CLERK 0001		
New Windsor NY 12553			ADDRESS 1 Sean Court		
C.O.D. NO. OR USED FOR			Rock Tavern NY 12575		
000000800 21			10986898757		

TOWN OF NEW WINDSOR
REQUEST FOR NOTIFICATION LIST

CHECKED BY MYRA: 03-11-08 MM

DATE: 03-11-08 PROJECT NUMBER: ZBA# 08-11 P.B. # _____

APPLICANT NAME: DEBORAH MENKENS

PERSON TO NOTIFY TO PICK UP LIST:

Deborah Menkens
1 Sean Court
Rock Tavern, NY 12575

TELEPHONE: 914-805-5843

TAX MAP NUMBER: SEC. 52 BLOCK 1 LOT 79.1
SEC. _____ BLOCK _____ LOT _____
SEC. _____ BLOCK _____ LOT _____

PROPERTY LOCATION: 1 SEAN CT
ROCK TAVERN

LIST OF PROPERTY OWNERS WITHIN 500 FT. FOR SITE PLANS/SUBDIVISION _____
(IS NOT PREPARED ON LABELS)

❖ ❖

THIS LIST IS BEING REQUESTED BY:

NEW WINDSOR PLANNING BOARD: _____

SITE PLAN OR SUBDIVISION: (ABUTTING AND ACROSS ANY STREET) _____

SPECIAL PERMIT ONLY: (ANYONE WITHIN 500 FEET) _____

AGRICULTURAL DISTRICT:
(ANYONE WITHIN THE AG DISTRICT WHICH IS WITHIN 500'
OF SITE PLAN OR SUBDIVISION PROJECT) _____

❖ ❖

NEW WINDSOR ZONING BOARD XXX

LIST WILL CONSIST OF ALL PROPERTY WITHIN 500 FEET OF PROJECT XXX

❖ ❖

AMOUNT OF DEPOSIT: 25.00 MONEY ORDER NUMBER: 10986898768

TOTAL CHARGES: _____



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4689

(email: mmason@town.new-windsor.ny.us)

ZONING BOARD OF APPEALS

March 7, 2008

Deborah Menkens
1 Sean Court
Rock Tavern, NY 12575

SUBJECT: ZBA #08-11 REQUEST FOR VARIANCE

Dear Ms. Menkens:

This letter is to inform you that you have been placed on the March 10th, 2008 agenda for the Zoning Board of Appeals to discuss your request for a variance at:

1 Sean Court
Rock Tavern, NY

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have a problem with this time and/or date, please contact me at the above number and we will reschedule your appearance. If you have any further questions, please feel free to contact me.

Very truly yours,

Myra Mason

Myra Mason, Secretary
Zoning Board of Appeals

MLM:mlm

via; email 3/7/08 - returned as "undeliverable"

**OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK**

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: 1/16/08

APPLICANT: Deborah A. Menkens
1 Sean Court
Rock Tavern, New York 12575

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR : Deborah A. Menkens

LOCATED AT: 1 Sean Court

ZONE: R-1 Sec/Blk/ Lot: 52-1-79.1

DESCRIPTION OF EXISTING SITE: SINGLE FAMILY DWELLING WITH EXISTING HORSE STABLE.

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 300-13 C ACCESSORY USES – NOT MORE THAN TWO HORSES PROVIDED THE ANIMAL(S) IS RESTRAINED SUCH THAT ANIMAL(S) CANNOT ENTER ANY PORTION OF THE PREMISES WITHIN 75' OF ANY PROPERTY LINE. A VARIANCE TO PERMIT 3 HORSES MAINTAINED 20' FROM BOTH SIDE /REAR AND FRONT (PROPERTY LINES).

COPY

Louis J. Kynhorst
BUILDING INSPECTOR

PERMITTED	PROPOSED OR AVAILABLE:	VARIANCE REQUEST:
ZONE: R-1 USE: 2 Horses 75ft from property line	3 Horses 20ft from property line	1 Horse 20ft from property line

MIN LOT AREA:

MIN LOT WIDTH:

REQ'D FRONT YD:

REQ'D SIDE YD:

REQ'D TOTAL SIDE TD:

REQ'D REAR YD:

REQ'D FRONTAGE:

MAX BLDG HT:

FLOOR AREA RATIO:

MIN LIVABLE AREA:

DEV COVERAGE:

cc: Z.B.A., APPLICANT, FILE, W/ ATTACHED MAP

1/25/08 Sent Applicant

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and under slab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number and Tax Parcel ID #, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Water and Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

RECEIVED

JAN 09 2008

PLANNING DEPARTMENT

FOR OFFICE USE ONLY:

Building Permit #: 2008-24

AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP. DISABILITY & LIABILITY INSURANCE
CERTIFICATES ARE REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises Deborah Menkens
Address 1 Sean Court Phone # 914-805-5843
Mailing Address Rock Tavern NY 12575
Name of Architect _____
Address _____ Phone _____
Name of Contractor _____
Address _____ Phone _____
State whether applicant is owner, lessee, agent, architect, engineer or builder _____
If applicant is a corporation, signature of duly authorized officer. _____
(Name and title of corporate officer)

1. On what street is property located? On the east side of Toleman Road
east of Sean Court (N.S.E.P.) Corner Lot
2. Zone or use district in which premises are situated AG1 Is property a flood zone? Y N X
3. Tax Map Description: Section 79 Block 58 Lot 1 52-1-79.1
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction
a. Existing use and occupancy Home and Farm (Private use)
b. Intended use and occupancy _____
5. Nature of work (check if applicable) ☐ New Bldg. ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☒ Other
6. Is this a corner lot? yes
7. Dimensions of entire new construction. Front _____ Rear _____ Depth _____ Height _____ No. of stories _____
8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____
Number of bedrooms 1 additional Horse
Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____
10. Estimated cost _____ Fee \$50 Money Order - 08447588976

Permit Application # 2

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors: Frank Lisi & Louis Krychear
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(845) 563-4618
(845) 563-4695 FAX

Bldg Insp Examined _____
Fire Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

(Signature of Applicant)

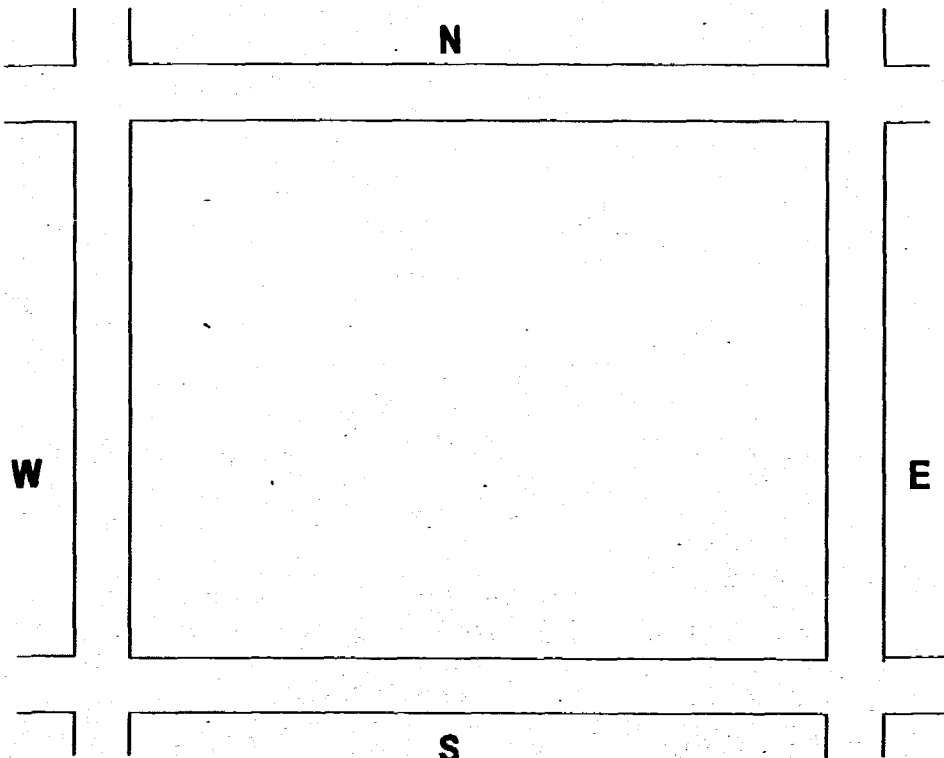
(Address of Applicant)

(Owner's Signature)

(Owner's Address)

NOTE:

Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.



Deborah Menkens

1 Sean Court Rock Tavern, NY 12575

914-805-5843

deborahmenkens@netscape.net

- Objective** For the Town of New Windsor to issue a permit for one additional horse and a permit for the existing wood fence to restrain horses (as per Master Plan Draft 2007).
- Hardships** See attached paper
- Achievements** Town of New Windsor Resident for 18 years
- New York State Horse Health Assurance Program**
- 2008 certified
 - 2007 certified
- New York State Agricultural Environmental Management**
- 2008 Working on Tier 3, 4 and 5
 - 2007 Completed Tier 1 and 2
- USDA National Animal Identification System (NAIS)**
- 2008
- Wildlife Habitat Council**
- 2005-present Certified Wildlife Habitat
- Orange County 4-H Agricultural Group**
- 2007-present
- New York State Soil and Water Conservation**
- 2007-present

Deborah Menkens

1 Sean Court Rock Tavern, NY 12575

914-805-5843

deborah.menkens@netscape.net

References

Dr. Lyda W. Denney,
NYSHHAP Coordinator
Office: 315-829-4282
Cell: 315-430-2529

Kevin Sumner, AEM
225 Dolson Avenue Suite 103
Middletown, NY 10940
Phone: (845) 343-1873
Fax: (845) 344-1341

Audrey Reith or Lucy Joyce
Cornell Cooperative Extension
Resource Educator, Equine & Livestock
(845) 344-1234

Pine Bush Equine Vet
96 Warn Ave
Pine Bush, NY 12566
(845) 361-4917

Joseph E Rakowiecki
151 Station Rd
Salisbury Mills, NY 12577-5113
(845) 496-4907

I am applying for two permits, *not a commercial business permit*.

- One to allow the existing wood fencing to house horses, by allowing the fencing the horses would gain .6 more acres of paddock space to live on. The current electrical fence is an eye sore to the community.
- The second permit is to allow one additional horse on the property for private personal use only. Said horse is being boarded at a cost of 648.00 dollars a month. The money spent on boarding could be better spent on landscaping and home improvements.
- Currently I own 4.159 acres, subtract .4882 acres for my residence, front yard and backyard, leaves 3.6708 acres available property for horse use. Neighboring towns do not subtract residence, barns, and sheds from land use.
- I have found that the residents of the Town of New Windsor are highly concerned with the loss of passive open space, farm land and rural character in the western part of the Town (issues discussed at public meeting for the Master Plan). The property in question is in the western part of Town and in an A.G. District 1 set by New York State.
- With the pressures of development in the Town, an agriculture goal set by the Master Plan is to "protect working agricultural landscapes and operations"). The property in question is located within an Agricultural District 1.
- The zoning laws in the Town of New Windsor are inhibiting, overly restrictive and unfair to backyard farms. Two horses on less than 20 acres is unreasonable and unrealistic. As per the Master Plan "insure that zoning regulations do not inhibit the operation of existing agricultural operations". At this time the current zoning laws are inhibiting my back yard farm.
- As per the Master Plan "revisit current regulations relating to housing and maintaining horses in Town's Zoning Code to assure adequate space buffering and the well being of animals. Land requirements should incrementally increase on a sliding scale based on the number of horses". As per the NYSHHAP and AEM my horses live in a very safe, clean, and healthy environment. Not to mention there is an existing buffer zone surrounding the farm.
- I've created a buffer of 25 feet or more off the property line and have landscaped within that buffer. Within the buffer is a trail for horses, hiking, bike riding and ATV use (for our private use). For the well being of my horses they should be granted the full use of the 3.6708 property. With the addition of one more horse on the property this would allow me to spend the boarding money on more landscaping and up grades on the property. The property has been recertified by NYSHHAP which means I operate/maintain one of the best private faculties in New York State.
- Sliding scale for horses should mirror neighboring towns for example (per Master Plan Draft); Town of Cornwall one horse per acre, Town of Hamptonburgh two acres one horse after that one horse per acre, Town of Blooming Grove one horse pre acre.
- With this in mind the Town of New Windsor has granted many permits in the past for horse fencing on property lines and permitted more than two horses on less than twenty acres in residential neighborhoods.

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and under slab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number and Tax Parcel ID #, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Water and Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

FOR OFFICE USE ONLY:
Building Permit #: 2008-23

AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP. DISABILITY & LIABILITY INSURANCE
CERTIFICATES ARE REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises Deborah Menkens 914-805-5843
Address 1 Sean Court Rock Tavern NY 12575
Mailing Address _____ Fax # _____
Name of Architect _____
Address _____ Phone _____
Name of Contractor _____
Address _____ Phone _____
State whether applicant is owner, lessee, agent, architect, engineer or builder _____
If applicant is a corporation, signature of duly authorized officer. _____
(Name and title of corporate officer) _____

1. On what street is property located? On the east side of Toleman Road
east of Sean Court corner lot
2. Zone or use district in which premises are situated AG1 Is property a flood zone? Y N X
3. Tax Map Description: Section 19 Block 58 Lot 1 52-1-79.1
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy Home and Farm (Private use)
5. Nature of work (check if applicable) ☐ New Bldg. ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☒ Demolition ☐ Other
6. Is this a corner lot? Yes
7. Dimensions of entire new construction: Front _____ Rear _____ Depth _____ Height _____ No. of stories _____
8. If existing, number of building units: _____
Use existing wood fencing to be used to maintain horses on property.
Number of Bedrooms _____ Baths _____ Halls _____ Kitchens _____ Living Rooms _____
Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____
9. If business, commercial or mixed occupancy specify nature and extent of each type of use _____
10. Estimated cost _____ Fee _____

Permit Application # 1 (returned postal money order # 08447588965 4/5/08)



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**



APPLICATION FOR VARIANCE

2-1-08

Date

Application Type: Use Variance ☐ Area Variance ☐
Sign Variance ☐ Interpretation ☐

deborahmenkens@netscape.net
e-mail address:

I. Owner Information:

Deborah Menken

(Name)

1 Sean Court Rock Tavern NY 12575

(Address)

Phone Number: (914) 805-5843

Fax Number: ()

II. Applicant:

e-mail address:

(Name)

Phone Number: ()

Fax Number: ()

(Address)

Same as above

III. Forwarding Address, if any, for return of escrow:

Phone Number: ()

Fax Number: ()

(Name)

(Address)

Same as above

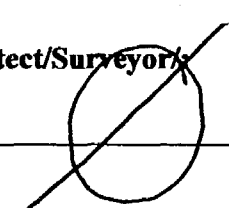
IV. Contractor/Engineer/Architect/Surveyor:

Phone Number ()

Fax Number: ()

(Name)

(Address)



V. Property Information:

New Windsor New York state Ag 1

Zone: R1

Property Address in Question:

1 Sean Court Rock Tavern

Lot Size: 4.159a

Tax Map Number: Section 52

Block 1

Lot 79.1

a. Is pending sale or lease subject to ZBA approval of this Application? NO

b. When was property purchased by present owner? yes

c. Has property been subdivided previously? NO If so, When:

d. Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? NO

****PLEASE NOTE:****

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

VIII. AREA VARIANCE: (This information will be on your Building Department Disapproval form you receive)

Area Variance requested from New Windsor Zoning Local Law,

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
→	2 horses 75ft	3 horses 25ft	1 horse 25ft
Min. Lot Area	from property line	from property	from property
Min. Lot Width		line	line
Reqd. Front Yd.			
Reqd. Side Yd.			
Total Side Yd.			
Reqd. Rear Yd.			
Reqd. St Front*			
Max. Bldg. Hgt.			
Min. Floor Area*			
Dev. Coverage*			
Floor Area Ratio**			
Parking Area			

*Residential Districts Only

**Non-Residential Districts Only

PLEASE NOTE:

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

- IX. **In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

PLEASE ANSWER EACH OF THE FOLLOWING QUESTIONS SPECIFICALLY:

- 1. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; The benefit sought is solely for the two horses in question. By expanding their living space by .6 acres and bringing home a companion that has been taken away from their herd.**
- 2. Whether the requested area variance is substantial; the request would not change any exterior element on the property.**
- 3. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: The physical environment has remained the same for the three past years. If anything the farm has bloomed with rolling hills of grass and wildlife.**
- 4. Whether the alleged difficulty was self-created; the zoning laws in the Town of New Windsor are inhibiting, overly restrictive and unfair to backyard farms. Only two horses on 20 acres or less is unreasonable and unrealistic. In addition 75 foot buffer is unacceptable. As per the Master Plan "revisit current regulations relating to housing and maintaining horses in Town's Zoning Code to assure adequate space buffering and the well being of animals. Land requirements should incrementally increase on a sliding scale based on the number of horses". As per the NYSHHAP and AEM my horses live in a very safe, clean, and healthy environment. Not to mention there is an existing buffer zone surrounding the farm.**
- 5. After reading the above paragraph, please describe why you believe the ZBA should grant your application for an Area Variance; I have found that the residents of the Town of New Windsor are highly concerned with the loss of passive open space, farm land and rural character in the western part of the Town (issues discussed at public meeting for the Master Plan). The property in question is in the western part of Town and in an A.G. District 1 set by New York State. With the pressures of development in the Town, an agriculture goal set by the Master Plan is to "protect working agricultural landscapes and operations". The property in question is located within an Agricultural District 1. The zoning laws in the Town of New Windsor are inhibiting, overly restrictive and unfair to backyard farms. Two horses on less than 20 acres are unreasonable and unrealistic. As per the Master Plan "insure that zoning regulations do not inhibit the operation of existing agricultural operations". At this time the current zoning laws are inhibiting my back yard farm. As per the Master Plan "revisit current regulations relating to housing and maintaining horses in Town's Zoning Code to assure adequate space buffering and the well being of animals. Land requirements should incrementally increase on a sliding scale based on the number of horses". As per the NYSHHAP and AEM my horses live in a very safe, clean, and healthy environment. Not to mention there is an existing buffer zone surrounding the farm. I've created a buffer of 25 feet or more off the property line and have landscaped within that buffer. Within the buffer is a trail for horses, hiking, bike riding and ATV use (for our private use). For the well being of my horses they should be granted the full use of the 3.6708 property. With the addition of one more horse on the property this would allow me to spend the boarding money on more landscaping and up grades on the property. The property has been recertified by NYSHHAP which means I operate/maintain one of the best private faculties in New York State. Sliding scale for horses should mirror neighboring towns for example (per Master Plan Draft); Town of Cornwall one horse per acre, Town of Hamptonburgh two acres one horse after that one horse per acre, Town of Blooming Grove one horse pre acre. With this in mind the Town of New Windsor has granted many permits in the past for horse fencing on property lines and permitted more than two horses on less than twenty acres in residential neighborhoods.**

XII. ADDITIONAL COMMENTS:

Land requirements should incrementally increase on a sliding scale based on the number of horses". As per the NYSHHAP and AEM my horses live in a very safe, clean, and healthy environment. Not to mention there is an existing buffer zone surrounding the farm. That buffer zone I created is 25 feet or more off the property line and we have landscaped within that buffer if the variance is approved we plan to invest more money into more landscaping. Within the buffer is a trail for horses, hiking, and bike riding. The property has been recertified by NYSHHAP which means I operate/maintain one of the best private facilities in New York State.

XIII. ATTACHMENTS REQUIRED:

- ☐ Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
- ☐ Copy of site plan or survey (if available) showing the size and location of the lot, buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☐ Copies of signs with dimensions and location.
- ☐ Three checks: (each payable to the TOWN OF NEW WINDSOR)
- ☐ One in the amount of \$ 300.00 or 500.00 (escrow)
- ☐ One in the amount of \$ 50.00 or 150.00 (application fee)
- ☐ One in the amount of \$ 25.00 (Public Hearing List Deposit)
- ☐ Photographs of area that variance(s) is/are being requested for showing relationship to property lines (5 or 6) from several angles. **(IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER - PLEASE SUBMIT FOUR (4) SETS OF THE PHOTOS.)**

XIV. AFFIDAVIT.

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/her information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this:

14th day of February 2008
Cheryl L. Canfield

CHERYL L. CANFIELD
Notary Public, State of New York
Qualified in Orange County
#01CA6073319
Commission Expires April 22, 2010

Signature and Stamp of Notary

Deborah A. Menkens
Owner's Signature (Notarized)

Deborah A. Menkens
Owner's Name (Please Print)

Applicant's Signature (If not Owner)

PLEASE NOTE:

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR <u>Deborah Menkens</u>	2. PROJECT NAME <u>3 horses 20 feet from Property Line</u>
3. PROJECT LOCATION: Municipality <u>Town of New Windsor</u> County <u>Orange</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>1 Sean Court Rock Tavern NY 12575</u>	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration <u>3 years old</u>	
6. DESCRIBE PROJECT BRIEFLY: <u>allow 3 horses 20 feet from property line</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>3.6</u> acres Ultimately <u>3.6</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly <u>applying for variance</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input checked="" type="checkbox"/> Other <u>Open Space</u> Describe: <u>all of the above</u>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: <u>Permits for fence, electric fence and barns</u>	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Deborah Menkens</u> Date: <u>2/7/08</u> Signature: <u>Deborah Menkens</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

<p>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)</p> <p>C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">NO</div></p> <p>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">NO</div></p> <p>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">NO</div></p> <p>C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">NO</div></p> <p>C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">NO</div></p> <p>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">NO</div></p> <p>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: <div style="text-align: center; font-size: 1.5em; margin-top: 10px;">NO</div></p> <p>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:</p> <p>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:</p>	<p>If yes, coordinate the review process and use the FULL EAF.</p>
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PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<p><input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.</p> <p><input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.</p>	
<p>_____ Name of Lead Agency</p> <p>_____ Print or Type Name of Responsible Officer in Lead Agency</p> <p>_____ Signature of Responsible Officer in Lead Agency</p>	<p>_____ Date</p> <p>_____ Title of Responsible Officer</p> <p>_____ Signature of Preparer (If different from responsible officer)</p>

Reset

